

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

LEWIS F. POPE,

Plaintiff,

vs.

PATRICIA ROBERTS HARRIS,
Secretary of Health and Human
Services,

Defendant.

No. 80-C-293-E ✓

FILED

JUN 10 1981


Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

This cause having been considered by the Court on the pleadings, the entire record certified to this Court by the Defendant Secretary of Health and Human Services (Secretary), and after due proceedings had, and upon examination of the pleadings and record filed herein, including the Briefs submitted by the parties, the Court is of the opinion as shown by its Memorandum Opinion filed herein of even date that the final decision of the Secretary is supported by substantial evidence as required by the Social Security Act, and should be affirmed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the final decision of the Secretary should be and hereby is affirmed.

Dated this 30th day of June, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CLAUDE R. PRUITT and IRENE
PRUITT, Individuals,

Plaintiffs,

vs.

CONNECTICUT GENERAL LIFE
INSURANCE COMPANY, a
corporation,

Defendants.

No. 80-C-555-E

*Filed
6-30-81
Jack C. Silver
Clerk*

ORDER OF DISMISSAL

The parties having so stipulated and agreed, IT IS
ORDERED that this action be dismissed with prejudice, with
each party to bear his, her or its own costs.

Given under my hand this 30th day of June,
1981.

S/ JAMES O. ELLISON
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DAVID C. THOMAS,

Plaintiff

Vs.

FANN INSTRUMENT CORPORATION,

Defendant

No. 79-C-674-BT ✓

FILED

JUN 30 1981

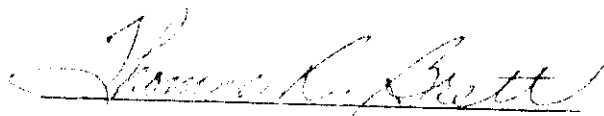
O R D E R

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Now on this 30th day of June, 1981, the above-captioned matter comes on for hearing before me, the undersigned judge of the Northern District of Oklahoma, the following proceedings were had.

Upon the application of the plaintiff, David C. Thomas, for an order dismissing with prejudice his action against the Fann Instrument Corporation, the court finds that the above styled action should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED, that the above-styled action shall be and is dismissed with prejudice against the defendant, Fann Instrument Corporation.



HON. THOMAS R. BRETT
United States District Court
Northern District of Oklahoma .

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
OKLAHOMA

FILED

JUN 30 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J. F. RUSHER, LEWIS R. SCHILLING,
and DAVE KENLY,

Plaintiff,

-vs-

FOX HENDERSON, JIM McCONNELL,
RAYMOND STARNES, SAM MEDLEY, and
PYRAMID ENERGY CORPORATION, an
Oklahoma corporation,

Defendants.

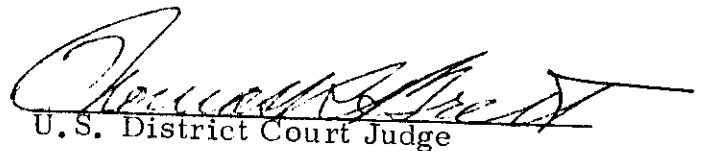
NO. 80-C-126-BT

ORDER OF DISMISSAL

On this 30th day of JUNE, 1981, the above captioned
matter came on for consideration of the Court.

IT IS ORDERED, ADJUDGED AND DECREED that the above en -
titled action be and the same is hereby dismissed with prejudice, against
said Defendants, each party to bear his or its own costs.

DATED this 30th day of JUNE, 1981.


U. S. District Court Judge

FILED

JUN 30 1981 *hm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

LARRY EUGENE ELDER,

Plaintiff,

vs.

No. 80-C-651-E ✓

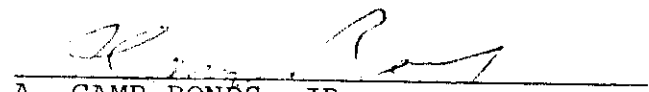
MISSOURI-KANSAS-TEXAS
RAILROAD COMPANY,
a corporation,

Defendant.

STIPULATION OF DISMISSAL WITH PREJUDICE

COMES NOW the plaintiff, Larry Eugene Elder, by and through his attorney, C. Jack Maner, and the defendant, Missouri-Kansas-Texas Railroad Company, by and through its attorney A. Camp Bonds, Jr., and stipulate that the above captioned cause of action be dismissed with prejudice to filing a future action herein.

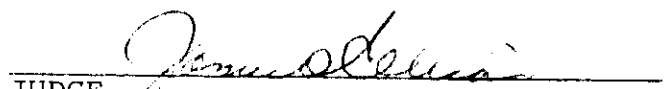

C. JACK MANER
Attorney for Plaintiff


A. CAMP BONDS, JR.
Attorney for Defendant

ORDER

AND NOW on this 30th day of June, 1981, there came on for consideration before the undersigned Judge of the United States District Court for the Northern District of Oklahoma, stipulation of the parties hereto of dismissal, parties hereto having advised the Court that all disputes between the parties have been settled.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above styled cause be and the same is hereby dismissed with prejudice to the right of the plaintiff to bring any future action arising from said cause of action.


JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AMERICAN PARKING COMPANY,)
)
Plaintiff,)
)
v.)
)
SOUTHERN SPECIALTIES)
CORPORATION,)
)
Defendant.)

80-C-521-E✓

FILED

JUN 30 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

On this 30th day of June, 1981, there comes on
for hearing the Application for Order of Dismissal of the Defendant's
counterclaim against the plaintiff. The Court, being fully advised,
grants the defendant's Application to Dismiss.

It is ordered.

James C. Silver
United States District Court Judge

Laurie N. Lyons
Laurie N. Lyons
Holliman, Langholz, Runnels &
Dorwart
Suite 700, Holarud Building
Ten East Third Street
Tulsa, Oklahoma 74103
(918) 584-1471

Attorneys for the defendant,
Southern Specialties Corporation

FILED

JUN 29 1961

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Plaintiffs,

v.

Defendant.

CIVIL NO. 80-C-696-B

It is hereby stipulated and agreed that the complaint in the above-entitled case be dismissed with prejudice, the parties to bear their respective costs, including any possible attorneys' fees or other expenses of litigation.

2200 Fourth National Bank Building
Tulsa, Oklahoma 74119

Attorney for Plaintiffs

Washington, D. C. 20530

Attorney for Defendant

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F. L. E. D.
JUN 29 1981

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
MARK J. SOWLES, SR.,)
)
Defendant.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 81-C-227-B

DEFAULT JUDGMENT

This matter comes on for consideration this 29th
day of June, 1981, the Plaintiff appearing by Philard L. Rounds, Jr.,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, Mark J. Sowles, Sr., appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Mark J. Sowles, Sr., was
personally served with Summons and Complaint on May 26, 1981,
and that Defendant has failed to answer herein and that default
has been entered by the Clerk of this Court.

The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to the
Complaint has expired, that the Defendant has not answered or
otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, Mark J.
Sowles, Sr., for the principal sum of \$1,250.00 plus accrued interest
of \$32.60 as of September 13, 1979, plus interest at 7% from Septem-
ber 13, 1979, until the date of Judgment, plus interest at the
legal rate on the principal sum of \$1,250.00 from the date of
this Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Philard L. Rounds, Jr.
PHILARD L. ROUNDS, JR.
Assistant U. S. Attorney

FILED

JUN 26 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

| | | |
|--|---|-------------|
| DANIEL HARRISON, |) | |
| Plaintiff, |) | |
| vs. |) | |
| UNITED STATES SECRET SERVICE, |) | 81-C-257-BT |
| Washington, D.C., |) | |
| Defendant. |) | |
| DANIEL HARRISON, |) | |
| Plaintiff, |) | |
| vs. |) | |
| FEDERAL BUREAU OF INVESTIGATION, |) | 81-C-261-BT |
| Washington, D.C., |) | |
| Defendant. |) | |
| DANIEL HARRISON, |) | |
| Plaintiff, |) | |
| vs. |) | |
| DRUG ENFORCEMENT ADMINISTRATION, |) | 81-C-274-BT |
| Washington, D.C., |) | |
| Defendant. |) | |
| DANIEL HARRISON, |) | |
| Plaintiff, |) | |
| vs. |) | |
| UNITED STATES DEPARTMENT OF TREASURY, |) | 81-C-275-BT |
| Tucson, Arizona and San Francisco, California, |) | |
| Defendant. |) | |
| DANIEL HARRISON, |) | |
| Plaintiff, |) | |
| vs. |) | |
| SOCIAL SECURITY ADMINISTRATION, |) | 81-C-276-BT |
| Baltimore, Maryland, |) | |
| Defendant. |) | |

DANIEL HARRISON,

Plaintiff,

VS.

UNITED STATES DEPARTMENT OF STATE,
Washington, D.C.,

Defendant.

81-C-277-BT

DANIEL HARRISON,

Plaintiff,

VS.

UNITED STATES POSTAL SERVICE,
POSTAL INSPECTION,
NEWARK, NEW JERSEY,

Defendant.

81-C-278-BT

DANIEL HARRISON,

Plaintiff,

VS.

LESTER BATTLES, POSTAL INSPECTOR,
UNITED STATES POSTAL SERVICE,

Defendant.

81-C-284-BT

DANIEL HARRISON,

Plaintiff,

VS.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C.,

Defendant.

81-C-285-BT

ORDER

Plaintiff, appearing pro se, prosecutes these actions in forma pauperis. He has instituted nine separate actions, two having been filed on June 18, 1981, and seven having been filed on June 23, 1981. This Court found the poverty affidavit of plaintiff submitted in each case not facially insufficient and allowed the complaints to be filed.

In his nine complaints plaintiff alleges violations of 5 U.S.C. §552 [Freedom of Information Act] and seeks money damages and injunctions.

In 81-C-257-BT [defendant is the United States Secret Service] plaintiff alleges on four occasions written requests were made for release of documents but that the Secret Service denied the existence of the records or knowledge of plaintiff. He also states an alleged violation of the right to amend pursuant to 5 U.S.C. §552. Damages in the amount of \$25,000 are sought.

In 81-C-261 [defendant is the Federal Bureau of Investigation] plaintiff aludes to an incident in 1977 concerning his attempted employment as a Special Agent/Chemist with the Drug Enforcement Agency. He complains of a wiretap and certain alleged abuses which were investigated by a Civil Rights Team while Clarence Kelly was the Director of the Federal Bureau of Investigation. He alleges the Federal Bureau of Investigation has not inserted information concerning this alleged incident in his "civil service files" which would "increase his civil service rating" and "enhance his employability and earnings". Damages in the amount of \$5,000 are sought.

In 81-C-274 [defendant is the Drug Enforcement Administration] plaintiff complains that recently in a "5 U.S.C. §552 Release from the Drug Enforcement Administration" an item from Montreal, Canada, contained words in quotation marks attributed to plaintiff and he denies he used such words [words are alleged to be "too hot" and "de-tractors"] and demands the right to correct the Justice Department Records. Damages in the amount of \$1,000 are sought.

In 81-C-274 [defendant is the United States Department of Treasury] plaintiff alleges the Treasury Department has failed to comply with 5 U.S.C. §552. Damages in the amount of \$10,000 are sought.

In 81-C-276 [defendant is the Social Security Administration] plaintiff complains that on May 14, 1981, he mailed a request to the Social Security Office at Ft. Lauderdale, Florida, to release documents as to why he was suspended from Social Security and forced onto welfare. Damages in the amount of \$25,000 are sought.

In 81-C-277 [defendant is the United States Department of State] plaintiff complains concerning certain correspondence allegedly had with the London Embassy and certain information given him by a Postal Inspector as to the mailing address of an individual in Japan. Damages in the amount of \$10,000 are sought.

In 81-C-278 [defendant is the United States Postal Service] plaintiff alleges he made a complaint of mail theft against a New York Telephone Company Supervisor to the Newark, New Jersey Postal Inspector and gave a report to the Postal Inspector in Tulsa, Oklahoma. He states two letters of inquiry have been made to Newark and the Postal Inspector has failed to produce a response. Damages in the amount of \$1,000 are sought.

In 81-C-284 [defendant is Lester Battles, Postal Inspector] plaintiff alleges that during an interview with Mr. Battles concerning a "massive mail opening charge" an issue was raised by Mr. Battles as to when plaintiff mailed a letter to the U.S. Army Pentagon. Plaintiff alleges Mr. Battles told someone of the conversation and the answer letter from the Pentagon was subsequently opened by a person unknown, violating plaintiff's First Amendment Rights and right to work. Damages in the amount of \$10,000 are sought.

In 81-C-285 [defendant is the Central Intelligence Agency] plaintiff claims the CIA violated the Freedom of Information Act by not specifically answering a request concerning letters of "request for employment". He further alleges a letter to the CIA informing them of violent statements of a New York Telephone Company wire tap by persons

unknown was not answered. He further alleges the Postal Inspectors in Tucson, Arizona and Hays, Kansas, have failed to produce responses "via 1510 trace initiated by sender of inquiries and failure thereof, that is no answer from either CIA to JSQs or by USPs itself". Damages in the amount of \$25,000 are sought.

5 U.S.C. §552(a)(3), as amended, states: "[E]ach agency, upon any request for records which (a) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed, shall make the records promptly available to any person." §552(a)(6)(C) provides that administrative remedies with respect to any request for records shall be deemed exhausted when the time limits for compliance with a request established by §552(a)(6)(A) have lapsed. The judicial review provision, §552(a)(4)(B) calls for de novo review of a refusal to disclose records and casts upon the agency the burden of sustaining its claims to exemption. There is no provision for recovery of money damages in the Act.

Plaintiff, in these cases, has failed to state a claim under the Freedom of Information Act because he has not alleged a request for information which complies with §552(a)(3). That section requires the request to conform to agency procedures. There is no allegation of exhaustion of administrative remedies. There is no showing of what documents were requested, if requested, and how such requests were denied. Even giving the liberal construction of pleadings as set forth in Haines v. Kerner, 404 U.S. 519 (1972), the recitations of undefined and unidentified charges and accusations of violation of the Freedom of Information Act and other constitutional violations, unsupported by understandable factual averments cannot form a basis upon which issues can be formed. Knowles v. Department of Justice, No. 80-1927 (10th Cir., June 8, 1981) [unpublished opinion].

The Court further finds the allegations in each of the complaints are vague and conclusory and therefore frivolous on their face. The Court further finds the filing of nine separate law suits in the time frame above noted constitutes an abuse of process and evidences a scheme of deliberate abuse of process and a malicious pattern of

litigation.


The test to be applied in determining whether an in forma pauperis complaint is frivolous has been stated by the Tenth Circuit Court of Appeals in numerous cases. E.g., Phillips v. Carey, _____ F.2d _____, No. 80-1268 (10th Cir., filed January 6, 1981); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976). Such a complaint is frivolous if the plaintiff cannot make a rational argument on the law or the facts to support his claim.

Therefore, the Clerk was directed to file the nine complaints, but judgment will issue summarily dismissing the nine complaints as frivolous and malicious without service of process. 28 U.S.C. §1915(d); Phillips v. Carey, supra; Henriksen v. Bentley, _____ F.2d _____, No. 79-2143 (10th Cir., filed March 26, 1981).

IT IS FURTHER ORDERED that the clerk of this Court shall also refuse to accept for filing any of petitioner's forma pauperis pleadings but shall first present such pleadings to the Judge of the Court for review.

IT IS FURTHER ORDERED that in view of the foregoing, any appeal taken from this judgment is not in good faith and that petitioner is not entitled to proceed on appeal in forma pauperis. Rule 24(a), Federal Rules of Appellate Procedure, 28 U.S.C.A.

ENTERED this 26th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED
JUN 26 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

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|--|---|-------------|
| DANIEL HARRISON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | 81-C-257-BT |
| |) | |
| UNITED STATES SECRET SERVICE, |) | |
| Washington, D.C., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| DANIEL HARRISON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | 81-C-261-BT |
| FEDERAL BUREAU OF INVESTIGATION, |) | |
| Washington, D.C., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| DANIEL HARRISON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | 81-C-274-BT |
| DRUG ENFORCEMENT ADMINISTRATION, |) | |
| Washington, D.C., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| DANIEL HARRISON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | 81-C-275-BT |
| vs. |) | |
| |) | |
| UNITED STATES DEPARTMENT OF TREASURY, |) | |
| Tucson, Arizona and San Francisco, California, |) | |
| |) | |
| Defendant. |) | |
| |) | |
| DANIEL HARRISON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | 81-C-276-BT |
| |) | |
| SOCIAL SECURITY ADMINISTRATION, |) | |
| Baltimore, Maryland, |) | |
| |) | |
| Defendant. |) | |

DANIEL HARRISON,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF STATE,
Washington, D.C.,

Defendant.

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81-C-277-BT

DANIEL HARRISON,

Plaintiff,

vs.

UNITED STATES POSTAL SERVICE,
POSTAL INSPECTION,
NEWARK, NEW JERSEY,

Defendant.

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81-C-278-BT

DANIEL HARRISON,

Plaintiff,

vs.

LESTER BATTLES, POSTAL INSPECTOR,
UNITED STATES POSTAL SERVICE,

Defendant.

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81-C-284-BT

DANIEL HARRISON,

Plaintiff,

vs.

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C.,

Defendant.

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81-C-285-BT

JUDGMENT

The Court, upon consideration of plaintiff's nine complaints and having entered its Order herein,

IT IS ORDERED, ADJUDGED AND DECREE that the nine complaints be and hereby are dismissed without prejudice.

ENTERED this 26th day of June, 1981.

A handwritten signature in cursive script, reading "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

JUN 26 1981

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

DANIEL HARRISON,

Plaintiff,

vs.

AUSA BEGLEITER,
JUSTICE DEPARTMENT,
EASTERN DISTRICT OF BROOKLYN,
NEW YORK, and
ATTORNEY GENERAL, WASHINGTON,
D.C.,

Defendants.

81-C-292-BT

ORDER

Plaintiff has tendered his complaint pro se seeking leave to file in forma pauperis. He alleges a violation of First Amendment Rights, 5 U.S.C. §552 and the right to amend and an alleged violation of Due Process. He refers to an action commenced by him against the Federal Bureau of Investigation [79-C-1186] evidently filed in another District Court before "Judge Costantino". He complains when AUSA Begleiter was asked why plaintiff's Justice records were burned there was no answer and further that when Judge Costantino asked Mr. Begleiter "What do you mean you burned the records", Mr. Begleiter did not answer. Plaintiff states the record should reflect this. Plaintiff demands \$50,000 in damages and a permanent injunction against the United States Attorney General and the Justice Department.

The records in the Court Clerk's office reveal plaintiff has filed nine law suits, two on June 18, 1981, and seven on June 23, 1981, and was permitted to proceed in forma pauperis in those actions. 81-C-257-BT, Daniel Harrison v. United States Secret Service; 81-C-261-BT, Daniel Harrison v. Federal Bureau of Investigation; 81-C-274-BT, Daniel Harrison v. Drug Enforcement Administration; 81-C-275-BT, Daniel Harrison v. United States Department of Treasury; 81-C-276-BT, Daniel Harrison v. Social Security Administration; 81-C-277-BT, Daniel

Harrison v. United States Department of State; 81-C-278-BT, Daniel Harrison v. United States Postal Service; 81-C-284-BT, Daniel Harrison v. Lester Battles, Postal Inspector; and 81-C-285-BT, Daniel Harrison v. Central Intelligence Agency.

The Court entered its Order and Judgment dismissing these nine cases without prejudice on June 26, 1981. A copy of the Order is attached as Exhibit "A" and made a part hereof.

Upon consideration of the plaintiff's Motion to proceed in forma pauperis, the Court finds that the poverty affidavit is not facially insufficient, and that the instant complaint should be filed.

The Court finds plaintiff has not stated a claim under the Freedom of Information Act (5 U.S.C. §552) nor the First Amendment or any violation of due process. Even giving the liberal construction of pleadings as set forth in Haines v. Kerner, 404 U.S. 519 (1972), the recitations of undefined and unidentified charges and accusations of violation of the Freedom of Information Act and other constitutional violations, unsupported by understandable factual averments cannot form a basis upon which issues can be formed. Knowles v. Department of Justice, No. 80-1927 (10th Cir., June 8, 1981) [unpublished opinion].

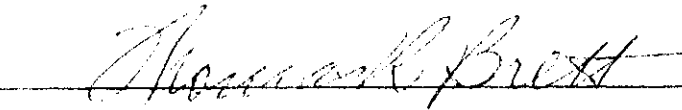
The Court further finds the allegations in the complaint are vague and conclusory and therefore frivolous on their face. The test to be applied in determining whether an in forma pauperis complaint is frivolous has been stated by the Tenth Circuit Court of Appeals in numerous cases. E.g., Phillips v. Carey, ____ F.2d ____, No. 80-1268 (10th Cir., filed January 6, 1981); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976). Such complaint is frivolous if the plaintiff cannot make a rational argument on the law or the facts to support his claim.

Therefore, the Clerk is directed to file the complaint, but judgment will issue summarily dismissing the complaint as frivolous and malicious without service of process. 28 U.S.C. §1915(d); Phillips v. Carey, *supra*; Henriksen v. Bentley, ____ F.2d ____, No. 79-2143 (10th Cir., filed March 26, 1981).

The Court reiterates its Order of June 26, 1981, in the nine cases heretofore dismissed that the clerk of this Court shall also refuse to accept for filing any of petitioner's forma pauperis pleadings but shall first present such pleadings to the Judge of the Court for review.

IT IS ORDERED that in view of the foregoing, any appeal taken from this judgment is not in good faith and that plaintiff is not entitled to proceed on appeal in forma pauperis. Rule 24(a), Federal Rules of Appellate Procedure, 28 U.S.C.A.

ENTERED this 26th day of June, 1981.

A handwritten signature in cursive script, reading "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

Defendant.

81-C-276-BT

ORDER

Plaintiff, appearing pro se, prosecutes these actions in forma pauperis. He has instituted nine separate actions, two having been filed on June 18, 1981, and seven having been filed on June 23, 1981. This Court found the poverty affidavit of plaintiff submitted in each case not facially insufficient and allowed the complaints to be filed.

In his nine complaints plaintiff alleges violations of 5 U.S.C. §552 [Freedom of Information Act] and seeks money damages and injunction.

In 81-C-257-BT [defendant is the United States Secret Service] plaintiff alleges on four occasions written requests were made for release of documents but that the Secret Service denied the existence of the records or knowledge of plaintiff. He also states an alleged violation of the right to amend pursuant to 5 U.S.C. §552. Damages in the amount of \$25,000 are sought.

In 81-C-261 [defendant is the Federal Bureau of Investigation] plaintiff aludes to an incident in 1977 concerning his attempted employment as a Special Agent/Chemist with the Drug Enforcement Agency. He complains of a wiretap and certain alleged abuses which were investigated by a Civil Rights Team while Clarence Kelly was the Director of the Federal Bureau of Investigation. He alleges the Federal Bureau of Investigation has not inserted information concerning this alleged incident in his "civil service files" which would "increase his civil service rating" and "enhance his employability and earnings". Damages in the amount of \$5,000 are sought.

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In 81-C-274 [defendant is the United States Department of Treasury] plaintiff alleges the Treasury Department has failed to comply with 5 U.S.C. §552. Damages in the amount of \$10,000 are sought.

In 81-C-276 [defendant is the Social Security Administration] plaintiff complains that on May 14, 1981, he mailed a request to the Social Security Office at Ft. Lauderdale, Florida, to release documents as to why he was suspended from Social Security and forced onto welfare. Damages in the amount of \$25,000 are sought.

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In 81-C-278 [defendant is the United States Postal Service] plaintiff alleges he made a complaint of mail theft against a New York Telephone Company Supervisor to the Newark, New Jersey Postal Inspector and gave a report to the Postal Inspector in Tulsa, Oklahoma. He states two letters of inquiry have been made to Newark and the Postal Inspector has failed to produce a response. Damages in the amount of \$1,000 are sought.

In 81-C-284 [defendant is Lester Battles, Postal Inspector] plaintiff alleges that during an interview with Mr. Battles concerning a "massive mail opening charge" an issue was raised by Mr. Battles as to when plaintiff mailed a letter to the U.S. Army Pentagon. Plaintiff alleges Mr. Battles told someone of the conversation and the answer letter from the Pentagon was subsequently opened by a person unknown, violating plaintiff's First Amendment Rights and right to work. Damages in the amount of \$10,000 are sought.

In 81-C-285 [defendant is the Central Intelligence Agency] plaintiff claims the CIA violated the Freedom of Information Act by not specifically answering a request concerning letters of "request for employment". He further alleges a letter to the CIA informing them of violent statements of a New York Telephone Company wire tap by persons

unknown was not answered. He further alleges the Postal Inspectors in Tucson, Arizona and Hays, Kansas, have failed to produce responses "via 1510 trace initiated by sender of inquiries and failure thereof, that is no answer from either CIA to JSQs or by USPs itself". Damages in the amount of \$25,000 are sought.

5 U.S.C. §552(a)(3), as amended, states: "[E]ach agency, upon any request for records which (a) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed, shall make the records promptly available to any person." §552(a)(6)(C) provides that administrative remedies with respect to any request for records shall be deemed exhausted when the time limits for compliance with a request established by §552(a)(6)(A) have lapsed. The judicial review provision, §552(a)(4)(B) calls for de novo review of a refusal to disclose records and casts upon the agency the burden of sustaining its claims to exemption. There is no provision for recovery of money damages in the Act.

Plaintiff, in these cases, has failed to state a claim under the Freedom of Information Act because he has not alleged a request for information which complies with §552(a)(3). That section requires the request to conform to agency procedures. There is no allegation of exhaustion of administrative remedies. There is no showing of what documents were requested, if requested, and how such requests were denied. Even giving the liberal construction of pleadings as set forth in Haines v. Kerner, 404 U.S. 519 (1972), the recitations of undefined and unidentified charges and accusations of violation of the Freedom of Information Act and other constitutional violations, unsupported by understandable factual averments cannot form a basis upon which issues can be formed. Knowles v. Department of Justice, No. 80-1927 (10th Cir., June 8, 1981) [unpublished opinion].

The Court further finds the allegations in each of the complaints are vague and conclusory and therefore frivolous on their face. The Court further finds the filing of nine separate law suits in the time frame above noted constitutes an abuse of process and evidences a scheme of deliberate abuse of process and a malicious pattern of

litigation.


The test to be applied in determining whether an in forma pauper complaint is frivolous has been stated by the Tenth Circuit Court of Appeals in numerous cases. E.g., Phillips v. Carey, _____ F.2d _____, No. 80-1268 (10th Cir., filed January 6, 1981); Smart v. Villar, 547 F.2d 112 (10th Cir. 1976). Such a complaint is frivolous if the plaintiff cannot make a rational argument on the law or the facts to support his claim.

Therefore, the Clerk was directed to file the nine complaints, but judgment will issue summarily dismissing the nine complaints as frivolous and malicious without service of process. 28 U.S.C. §1915(d); Phillips v. Carey, supra; Henriksen v. Bentley, _____ F.2d _____, No. 79-2143 (10th Cir., filed March 26, 1981).

IT IS FURTHER ORDERED that the clerk of this Court shall also refuse to accept for filing any of petitioner's forma pauperis pleadings but shall first present such pleadings to the Judge of the Court for review.

IT IS FURTHER ORDERED that in view of the foregoing, any appeal taken from this judgment is not in good faith and that petitioner is not entitled to proceed on appeal in forma pauperis. Rule 24(a), Federal Rules of Appellate Procedure, 28 U.S.C.A.

ENTERED this 26th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

JUN 26 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DANIEL HARRISON,

Plaintiff,

vs.

AUSA BEGLEITER,
JUSTICE DEPARTMENT,
EASTERN DISTRICT OF BROOKLYN,
NEW YORK, and
ATTORNEY GENERAL, WASHINGTON,
D.C.

Defendants.


81-C-292-BT

JUDGMENT

The Court upon consideration of plaintiff's complaint and
having entered its Order herein,

IT IS ORDERED, ADJUDGED AND DECREED that the complaint be
and hereby is dismissed without prejudice.

ENTERED this 26th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 26 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

HAZEL H. FANNING,

Plaintiff,

v.

E. L. BARTHOLOMEW,

Defendant.

No. 80-C-721-B

ORDER

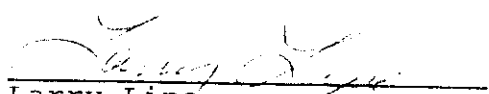
This matter comes on the plaintiff's Motion for Dismissal of the above entitled action with prejudice. Having reviewed the file and being fully advised in the premises, the Court finds that the motion should be granted.

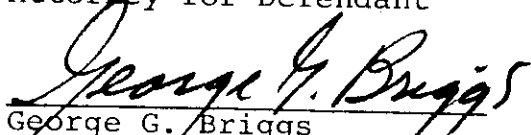
WHEREFORE, IT IS HEREBY ORDERED that the above captioned matter should be and hereby is dismissed with prejudice.

DATED this ²⁶23rd day of June, 1981.


UNITED STATES DISTRICT COURT JUDGE

APPROVED AS TO FORM:


Larry Lipe
Attorney for Defendant


George G. Briggs
Attorney for Plaintiff

FILED

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

JUN 26 1981

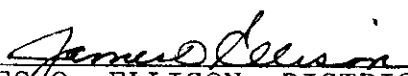
EARNEST FIELDS,)
)
Plaintiff,)
)
vs.) No. 80-C-383-E
)
AMULCO ASPHALT - ANCHOR STONE)
DIVISION, a corporation,)
)
Defendant.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

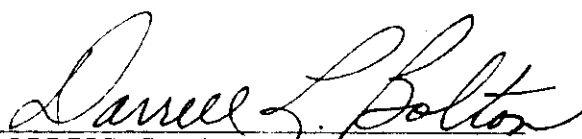
ORDER OF DISMISSAL

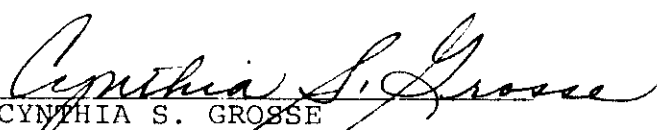
On this 26th day of June, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint as to any and all causes of action alleged by the Plaintiff, Earnest Fields, against the Defendant, Amulco Asphalt, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff Earnest Fields filed herein against the Defendant be and the same hereby is dismissed with prejudice to any future action.


JAMES O. ELLISON, DISTRICT JUDGE

APPROVED AS TO FORM:


DARRELL L. BOLTON
Attorney for the Plaintiff


CYNTHIA S. GROSSE
Attorney for the Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OSTERTAG OPTICAL SERVICE, INC.,)
a Corporation,)

Plaintiff,)

vs.)

BARRETT SPENCER, d/b/a)
BARRETT SPENCER OPTICAL)
SERVICE,)

Defendant.)

No. CIV-81-C-116-C

F I L E D

JUN 25 1981

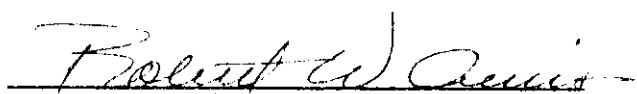
ORDER OF DISMISSAL

Jack C. Silver, Clerk
U. S. DISTRICT COURT

The Court, upon motion of the parties, hereby dismisses with prejudice
the Complaint of the Plaintiff, including all causes of action alleged therein,
with each party to suffer its or his own costs.


United States District Judge

Approved as to Form:


Robert W. Amis

Attorney for Plaintiff,
Ostertag Optical Service, Inc.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

FILED

JUN 25 1981

HERSEL R. GRAZIER,
Plaintiff

Jack C. Silver, Clerk
U. S. DISTRICT COURT

VS.

CASE NO. 81-C-4E

MISSOURI-PACIFIC
RAILROAD CO.,
Defendant.

O R D E R

NOW on this 18th day of June, 1981, comes the above named cause, and the Plaintiff being represented by his attorney, G. Roy Grazier, Sr., and the Defendant being represented by his attorney, Harry H. Goldman for the firm of Dyer, Powers, Marsh, Turner & Armstrong, the Court hearing argument and being fully advised in the case finds;

That the Plaintiff's Motion To Dismiss Without Prejudice should be and hereby is sustained conditioned on the payment of \$105.54 to the Defendant, said sum to fully compensate Defendant for cost in this case.

The Court further finds that the Defendant's Motion for attorneys fees should be and hereby is denied.

IT IS SO ORDERED.

DATED this 24 day of June, 1981.

Approved as to form

S/ JAMES O. ELLISON

Harry H. Goldman
Harry H. Goldman
Attorney for Defendant

DISTRICT JUDGE.

G. Roy Grazier
G. Roy Grazier
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 25 1981

ABDALLAH RAMADAN SHABAZZ,
Plaintiff,
vs.
JAN ERIC CARTWRIGHT, et al.,
Defendants.

No. 81-C-38-E

W. C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has before it for consideration certain motions filed by Defendants including a motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6) filed on behalf of Defendant Cartwright individually and a motion to dismiss for failure to exhaust administrative remedies filed on behalf of all Defendants.

This is a pro se civil rights complaint commenced by leave of Court on February 3, 1981. In his complaint, Plaintiff seeks injunctive and declaratory relief requiring Defendants to refer to Plaintiff by his recently adopted legal name of Abdallah Ramadan Shabazz. Plaintiff alleges that Defendants' failure to use Plaintiff's chosen name in addressing and classifying him violates Plaintiff's first amendment right of the free exercise of religion contained in the United States Constitution.

The Court will first address the motion to dismiss filed by Defendant Cartwright. It is well settled that before granting a motion to dismiss for failure to state a claim pursuant to Fed.R.Civ.P. 12(b)(6), the Court must be convinced to a certainty that "the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Dewell v. Lawson, 489 F.2d 877, 880 (Tenth Cir. 1974). Furthermore, for purposes of this motion, the Court is required to accept as true the allegations contained in the complaint and to construe them in the light most favorable to the Plaintiff. Brian v. Stillwater Board of Realtors, 578 F.2d 1319, 1321 (Tenth Cir. 1977); Oplin v. Ideal National Insurance Co., 419 F.2d 1250, 1255 (Tenth Cir. 1969), cert. denied 397 U.S. 1074 (1970).

Bearing these requirements in mind, the Court has reviewed the allegations contained in Plaintiff's complaint. The Plaintiff is at-

tempting to impose liability upon Defendant Cartwright on a respondeat superior theory. This is apparent from Plaintiff's complaint which explains that Cartwright was acting under color of state law since "Jan Eric Cartwright is legally responsible as chief law officer of the State of Oklahoma." Plaintiff does not allege that Cartwright was an active participant in the alleged deprivation of Plaintiff's rights. There are no allegations made by Plaintiff sufficient to forge an "affirmative link" between the misconduct complained of and any action by Defendant Cartwright. Rizzo v. Goode, 423 U.S. 362 (1976); Kite v. Kelley, 546 F.2d 334, 337 (Tenth Cir. 1976).

As the Tenth Circuit pointed out in McClelland v. Facticeau, 610 F.2d 693, 696 (Tenth Cir. 1979), it has been recognized that the language of § 1983 "subjects, or causes to be subjected" is broader than direct personal involvement. It can also include failure to perform a duty if that failure causes deprivation of protected rights. In the case at bar, Plaintiff has not alleged such failure on the part of Defendant to perform his requisite duties.

Having carefully reviewed the record in this case, and bearing in mind the applicable law and the standards to be applied, this Court is of the opinion that Defendant Cartwright's motion to dismiss should be granted.

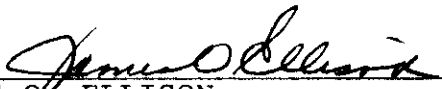
The remaining Defendants have filed a motion to dismiss for failure to exhaust administrative remedies. In their brief in support of the motion, Defendants set out accurately and in some detail, the administrative procedures which Plaintiff must exhaust before seeking recourse in the federal court system. In Plaintiff's responsive brief, Plaintiff, by means of affidavits, establishes quite clearly that he has in fact gone through the required grievance procedures set out by the State Department of Corrections.

Based upon this evidence before this Court, it is apparent that Defendants' motion is moot and need not be further considered by this Court.

IT IS THEREFORE ORDERED that Defendant Cartwright's motion to dismiss is hereby granted.

IT IS FURTHER ORDERED that the remaining Defendants' motion to dismiss for failure to exhaust administrative remedies is moot.

It is so Ordered this 24TH day of June, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

RAGSDALE SYSTEMS, INC., et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 RAGSDALE & REED, INC., et al.,)
)
 Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Accordingly the merits of the motion pending before the Court is not reached. The complaint is defective and sua sponte

the complaint is hereby dismissed for failure to properly allege jurisdictional facts.

It is so Ordered this 25th day of June, 1981.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE:

EUGENE C. MULLENDORE and
KATHLEEN BOREN MULLENDORE,

Debtors,

KATHLEEN BOREN MULLENDORE and
KATSY MULLENDORE MECOM,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

FILED

JUN 25 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-682-C


O R D E R

Now before the Court for its consideration is the appeal of the appellants Kathleen Boren Mullendore and Katsy Mullendore Mecom of a decision and order of the Bankruptcy Court of the Northern District of Oklahoma, which required the debtors in possession to pay into the Treasury of the United States the sum of \$14,265.06 as an additional fee payable to the Referees' Salary and Expense Fund, §40(c)(2) of the Bankruptcy Act, 11 U.S.C. §68(c)(2). The former debtors in possession urge the Court to reverse the decision of the Bankruptcy Court.

Under Rule 810 of the Bankruptcy Rules, this Court is required to accept the referee's findings of fact unless they are clearly erroneous. Sierra Trading v. Winkler, 482 F.2d 336 (10th Cir. 1973). The Court has reviewed the briefs and authorities herein, and finds nothing clearly erroneous in the decision of the Bankruptcy Court. Therefore, the order of the United States

Bankruptcy Court for the Northern District of Oklahoma requiring payment to the Referee's fund is hereby affirmed.

It is so Ordered this 25th day of June, 1981.



H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HOERNER WALDORF, DIVISION
OF CHAMPION INTERNATIONAL
CORPORATION,

Plaintiff,

vs.

PETTETT MANUFACTURING COMPANY,

Defendant.

No. 80-C-719-C ✓

FILED

JUN 25 1981 *hm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

On April 10, 1981, the Court ordered that this action would be dismissed if plaintiff had not properly served defendant by April 30, 1981. Since no service has been made upon the defendant by plaintiff, the action is hereby dismissed.

It is so Ordered this 25th day of June, 1981.

H. Dale Cook
H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ORETHA MENNSFIELD,

Plaintiff,

vs.

HILLCREST MEDICAL CENTER, INC.,
an Oklahoma non-profit
corporation,

Defendant.

No. 81-C-16-C

FILED

JUN 25 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

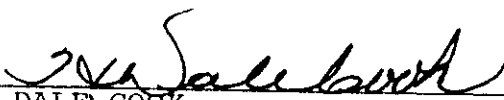
O R D E R

Now before the Court, sua sponte, for its consideration is the issue of the plaintiff's failure to perfect sufficient service of process upon the defendant as required by this Court's Order filed June 10, 1981, in the above styled action.

The Court has made a complete and diligent search of the court records in the above styled action and finds that plaintiff has failed to perfect sufficient service as required in the Order of June 10, 1981.

For the foregoing reason, it is the Order of this Court that the defendant's Motion to Dismiss in the above styled action be sustained and that this action should be and hereby is dismissed.

It is so Ordered this 25th day of June, 1981.


H. DALE COOK
Chief Judge, U. S. District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RAYMOND J. DONOVAN, Secretary of)
Labor, United States Department)
Labor,)
)
Plaintiff,)
)
v.)
)
MRS. PEARL POOL, d/b/a NORTHVIEW)
RETIREMENT HOME a/k/a NORTHVIEW)
ROOM & BOARD,)
)
Defendant.)

Civil Action File
No. 80-C-294-C

FILED

JUN 25 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

Plaintiff has filed his complaint and defendant, without admitting that she has violated any provision of the Fair Labor Standards Act of 1938, has waived her defenses and has agreed to the entry of judgment without contest, it is, therefore, upon motion of the plaintiff and for cause shown,
.

ORDERED, ADJUDGED and DECREED that defendant, her officers, agents, servants, employees and all persons in active concert or participation with her be and they hereby are permanently enjoined and restrained from violating the provisions of sections 6, 7, and 15(a)(2) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 201, et seq., hereinafter referred to as the Act, in any of the following manners:

Defendant shall not, contrary to sections 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), pay any employee who is engaged in commerce or in the production of goods for commerce, or who is employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at a rate less the minimum hourly rates required by section 6 of the Act.

Defendant shall not, contrary to sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§207 and 215(a)(2) employ any employee in commerce or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer

than forty (40) hours, unless the employee receives compensation for his employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he is employed.

It is further ORDERED, ADJUDGED and DECREED that the defendant be and she hereby is enjoined and restrained from withholding overtime compensation in the total amount of \$9,000.00, which the Court finds is due under the Act to defendant's employees named in Exhibit "A" attached hereto, in the amounts stated for the period January 1, 1978 to June 1, 1980. To comply with this provision of this judgment defendant shall deliver to the plaintiff 24 cashier's or certified checks payable to "Employment Standards Administration-Labor" in the amounts and the times herein set forth:

Payment of \$9,000.00 in 24 equal consecutive monthly installments of \$411.19, with the first installment being due and payable on/or before July 1, 1981 and the remaining installments being due and payable on/or before the same day of each succeeding month thereafter until all installments have been paid.

From the proceeds of said payments, plaintiff shall make appropriate distribution to the employees named herein or to their estate if necessary, in the respective amounts due said employees, less income tax and social security deductions. In the event that any of said money cannot be distributed and paid over by plaintiff within the period of one (1) year after payment in full pursuant to this judgment because of inability to locate the proper persons or because of their refusal to accept such sums, the money shall be deposited with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. §2041.

It is further ORDERED, that in the event of default by the defendant in the payment of any of the above-recited installments, the total balance remaining unpaid shall then become due and payable and interest shall be assessed against such remaining unpaid balance at the rate of 9 percent per annum from the date of this judgment until the total amount is paid in full.

It is further ORDERED that each of the parties shall bear his or her own costs.

Dated this 25th day of June 1981



UNITED STATES DISTRICT JUDGE

Defendant waives her defenses to plaintiff's complaint and consents to the entry of this judgment:



R. DOW BONNELL
Attorney for Defendant

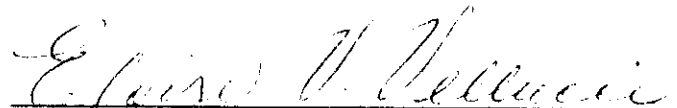
Plaintiff moves for entry of this judgment:

T. TIMOTHY RYAN, JR.
Solicitor of Labor

JAMES E. WHITE
Regional Solicitor

HERIBERTO DE LEON
Counsel for Employment
Standards

By:



ELOISE V. VELLUCCI
Attorney

Attorneys for RAYMOND J. DONOVAN,
Secretary of Labor, United
States Department of Labor,

Plaintiff.

P. O. ADDRESS:

Office of the Solicitor
U. S. Department of Labor
555 Griffin Square Bldg., Suite 501
Dallas, Texas 75202

Telephone No. 214/767-4902

SOL Case No. 09206

EXHIBIT A

| | |
|-------------------|--------------|
| Alliene Atchley | \$ 305.26 |
| Geneva Bittle | 1,236.16 |
| Joy Bright | 11.31 |
| Ada Dick | 1,085.57 |
| Luella Drew | 1,605.06 |
| Bonnie Freeman | 93.51 |
| Debra Gilmore | 776.27 |
| Martha Langendorf | 31.17 |
| Sue Lealhers | 240.53 |
| Opal Lusk | 1,135.86 |
| Deena Simmons | 385.95 |
| Jimi Sisco | 194.96 |
| Sue Smith | 1,826.46 |
| Ida Turpin | <u>71.93</u> |
| Total | \$9,000.00 |

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BERT A. GRAHAM,

Plaintiff,

vs.

EARL E. BENDER, et al.,

Defendants.

No. 78-C-343-C ✓

FILED

JUN 25 1981 *fm*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Now before the Court is the motion of the defendants to dismiss the plaintiff's complaint with prejudice.

On April 6, 1981, the Tenth Circuit Court of Appeals affirmed this Court's order which sustained defendants' Motion for Summary Judgment on all issues. Since no appeal has been taken nor certiorari requested, Summary Judgment is now final.

Therefore, it is ordered that defendants' Motion to Dismiss is hereby sustained.

It is so Ordered this 25th day of June, 1981.

H. Dale Cook
H. DALE COOK

Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

INTERNATIONAL PROCESS FABRICATORS,)
a corporation,)

Plaintiff,)

-vs-)

CHICAGO PNEUMATIC TOOL COMPANY,)
a corporation,)

Defendant.)

NO. 80-C-370-C

FILED

JUN 24 1981

ORDER OF DISMISSAL

JUDICIAL CLERK
U. S. DISTRICT COURT

Pursuant to the Stipulation of Dismissal filed in the
above captioned case, the Court does hereby,

ORDER, ADJUDGE AND DECREE that the above captioned
case is dismissed with prejudice. Each party is to bear their
own costs.

SO ORDERED this 24 day of June, 1981.

(Signed) H. Dale Cook

JUDGE OF THE DISTRICT COURT

FILED

Figure 1. The effect of the concentration of the H_2O_2 solution on the amount of the released H_2O_2 from the H_2O_2 -loaded hydrogel. The amount of the released H_2O_2 was measured by the amount of the released H_2O_2 from the H_2O_2 -loaded hydrogel. The amount of the released H_2O_2 was measured by the amount of the released H_2O_2 from the H_2O_2 -loaded hydrogel.

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AGREED JUDGMENT

NOW on this 24th day of June, 1981 there comes on before me the Honorable James O. Ellison, Judge of the United States District Court, Plaintiff and Defendant's agreed Journal Entry of Judgment. The Court after reviewing the Pleadings filed in this matter, and upon argument of counsel finds that Plaintiff and Defendant have agreed that Plaintiff is entitled to recover upon his complaint against the Department of Justice of the United States of America on each count. The Court further finds that the Plaintiff has been injured and is entitled to damages in the sum of One Thousand Dollars (\$1,000.00) for each violation, a total of Two Thousand Dollars (\$2,000.00). The Court further finds that the Plaintiff should recover a reasonable attorneys fee and that a reasonable attorneys fee is Nine Hundred Seventy-Five Dollars (\$975.00). It is the further finding of the Court that Plaintiff should recover the costs of this action which the Court finds to be Sixty-Three Dollars (\$63.00). It is the further finding of the Court that the Plaintiff and Defendants specifically agree to said findings and enter judgment in favor of the Plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against the Defendant herein the sum of Two Thousand Dollars (\$2,000.00) for the Defendant's violation of Plaintiff's right to privacy as set out in 5 U.S.C. § 552(a)(b).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against the Defendant for a reasonable attorneys fee which the Court finds to be Nine Hundred Seventy-Five Dollars (\$975.00) and for his costs in the sum of Sixty-Three Dollars (\$63.00).

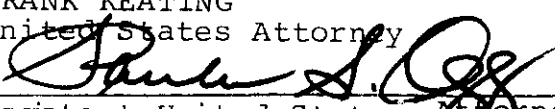
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff and Defendant have entered into this judgment by agreement by Defendant's admission of its violation of Plaintiffs rights.

IT IS SO ORDERED.

S/ JAMES O. ELLISON

Honorable James O. Ellison
Judge of the United States
District Court

APPROVED AS TO
CONTENT AND FORM:

FRANK KEATING
United States Attorney

Assistant United States Attorney

Jones, Francy, Doris & Sutton, Inc.
Daniel Doris
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOHN SWINFORD,)
)
Plaintiff,)
)
-vs-)
)
JERRY INMAN TRUCKING, INC.,)
)
Defendant and) No. 80-C-550-E
Third-Party Plaintiff,)
)
-vs-)
)
GILVIN & TERRILL, INC., and)
H. B. ZACHARY COMPANY,)
)
Third-Party Defendants.)

FILED

JUN 24 1981

Jack G. Silver, Clerk
U. S. DISTRICT COURT

NOTICE OF
DISMISSAL WITHOUT PREJUDICE

COMES NOW the Plaintiff, John Swinford, and does notify the Court that it is hereby dismissing without prejudice its claims against the Defendant, H. B. Zachary Company, in this matter currently pending before the Northern District of Oklahoma, pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure.

Arthur E. Rubin
Arthur E. Rubin
GABLE, GOTWALS, RUBIN, FOX,
JOHNSON & BAKER
20th Floor, Fourth National Bldg.
Tulsa, Oklahoma 74119
(918) 582-9201

and

E. Charles Geittmann
E. Charles Geittmann, P.C.
107 West Sixth Street
Metropolis, Illinois 62960
(618) 524-2104

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF MAILING

I hereby certify that a true, correct and exact copy of the above and foregoing Notice of Dismissal Without Prejudice has been mailed this 24 day of June, 1981, with proper postage thereon fully prepaid, to the following:

Deryl Gotcher, Esq.
Jones, Givens, Gotcher,
Doyle & Bogan, Inc.
Suite 400, 201 West Fifth Street
Tulsa, Oklahoma 74103

Michael C. Musick, Esq.
Gibson, Ochsner & Adkins
500 First National Bank Building
Eighth and Taylor
Amarillo, Texas 79101

W. P. Sturdivant, Esq.
Gibson, Ochsner & Adkins
500 First National Bank Building
Eighth and Taylor
Amarillo, Texas 79101

Alfred B. Knight, Esq.
Knight, Wagner, Stuart,
Wilkerson & Leiber
310 Beacon Building
Tulsa, Oklahoma 74103

Donald Church, Esq.
Church & Roberts
501 Philtower Building
Tulsa, Oklahoma 74103

Arthur E. Dublin

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JOHN SWINFORD,

Plaintiff,

-vs-

JERRY INMAN TRUCKING, INC.,

Defendant and
Third-Party Plaintiff,

-vs-

GILVIN & TERRILL, INC., and
H. B. ZACHARY COMPANY,

Third-Party Defendants.

JUN 24 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-550-E

STIPULATION OF DISMISSAL

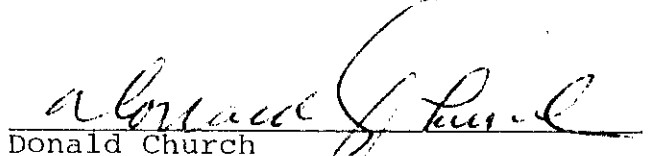
COME NOW the parties herein and hereby stipulate and agree that the Plaintiff, John Swinford, may hereby dismiss without prejudice its cause of action in the present case pending before the Northern District of Oklahoma against the Defendant, Gilvin & Terrill, Inc., pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure.



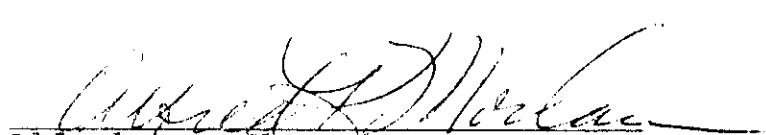
Arthur E. Rubin
GABLE, GOTWALS, RUBIN, FOX,
JOHNSON & BAKER
20th Floor, Fourth National Bldg.
Tulsa, Oklahoma 74119
(918) 582-9201

and

E. Charles Geittmann
E. Charles Geittmann, P.C.
107 West Sixth Street
Metropolis, Illinois 62960
(618) 524-2104
ATTORNEYS FOR PLAINTIFF



Donald Church
CHURCH & ROBERTS
501 Philtower Building
Tulsa, Oklahoma 74103
(918) 583-8156
ATTORNEYS FOR DEFENDANT,
JERRY INMAN TRUCKING, INC.



Alfred K. Morlan
JONES, GIVENS, GOTCHER,
DOYLE & BOGAN, INC.
201 West 5th Street, Suite 400
Tulsa, Oklahoma 74103
(918) 581-8200

Stephen C. Wilkerson
Stephen C. Wilkerson
KNIGHT, WAGNER, STUART,
WILKERSON & LIEBER
310 Beacon Building
Tulsa, Oklahoma 74103
(918) 584-6457
ATTORNEYS FOR DEFENDANT,
GILVIN & TERRILL, INC.

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 24 1981 *je*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

WILLIAM LUTHER DAY,)
)
Plaintiff,)
)
v.)
)
JAMES L. THOMPSON, et al.,)
)
Defendants.)

No. 80-C-410-B

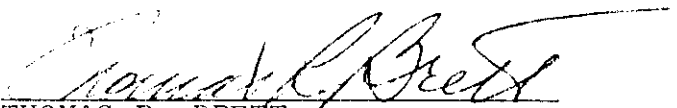
O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed on June 11, 1981, in which it is recommended that Plaintiff's Motion to Dismiss Without Prejudice be sustained. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the matters presented to it, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is hereby Ordered that Plaintiff's Motion to Dismiss Without Prejudice and without assessment of costs or expenses be and hereby is sustained.

Dated this 24th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.) Civil No. 81-C-90-C
)
CUSTOM AIRMOTIVE, INC.,)
)
 Defendant.)

FILED

JUN 24 1981

AGREED JUDGMENT

Jack C. Silver, Clerk
U. S. DISTRICT COURT

This matter comes on for consideration this 24
day of June, 1981, the Plaintiff appearing by Paula S. Ogg,
Assistant United States Attorney for the Northern District
of Oklahoma, and the Defendant, Custom Airmotive, Inc.,
appearing by Tom Mason.

The Court being fully advised and having examined
the file herein finds that Defendant Custom Airmotive, Inc.
was served with Summons and Complaint on March 16, 1981, by
certified mail.

The parties agree and consent that judgment may be
entered against the Defendant Custom Airmotive, Inc., in the
amount of \$1,000.

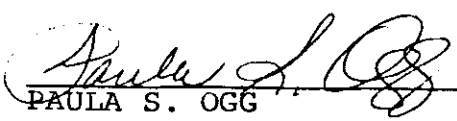
IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED
that the Plaintiff have and recover Judgment against Defendant,
Custom Airmotive, Inc., for the sum of \$1,000, with interest
at the legal rate from this date.

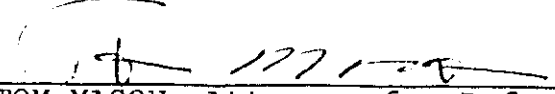
(Signed) H. Dale Cook

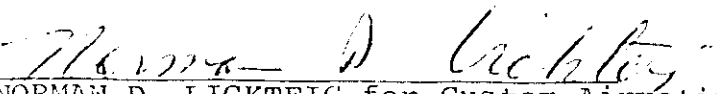
UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING
United States Attorney


PAULA S. OGG
Assistant United States Attorney


TOM MASON, Attorney for Defendant


NORMAN D. LICKTEIG for Custom Airmotive

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 23 1981

Jack O. Silver, Clerk
U. S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

vs.

PHILLIPS PETROLEUM COMPANY,
a Corporation,

Defendant.


No. 76-C-488-E

JUDGMENT

Upon consideration of the pleadings, the evidence submitted at trial, and the proposed findings of fact and conclusions of law, together with supporting briefs, and based upon such review, as is more fully set out in the Findings of Fact and Conclusions of Law filed of even date,

IT IS ORDERED, ADJUDGED AND DECREED that Judgment be and hereby is granted in favor of Defendant and against Plaintiff, Equal Employment Opportunity Commission, on all of Plaintiff's claims in this action.

IT IS SO ORDERED this 23^d day of June, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

BURLINGTON NORTHERN, INC.,
a corporation,

Plaintiff,

vs.

HENRY FLOOD and GENE FLOOD,
d/b/a FLOOD & SON, a partner-
ship, GUARANTY NATIONAL
INSURANCE COMPANY, ROGER
JONES, and GARY DWAYNE
MEDLOCK,

Defendants.

No. 80-C-259-C

FILED

JUN 23 1981

Jack M. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This cause came on for trial on this 15th day of June, 1981, at which time the jury was impaneled. On the 16th day of June, 1981, the plaintiff rested its case. Thereupon, the defendant, Roger Jones, moved to dismiss. The Court finds that as stipulated by the Pre-Trial Order, the defendant-driver, Gary Dwayne Medlock, was the agent and employee of the defendant, Flood & Son, and no evidence has been offered establishing that Gary Dwayne Medlock was acting as the agent of the defendant, Roger Jones, at the time of the train-truck collision and, therefore, his motion to dismiss should be sustained.

Thereupon, Roger Jones in open court asked leave to dismiss his counter-claim against the plaintiff, Burlington Northern, Inc., without prejudice and the plaintiff stated that it had no objections to a dismissal of the counter-claim without prejudice.

NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED by the Court that the motion to dismiss of the defendant, Roger

Jones, be and the same is hereby sustained and he is dismissed as a defendant herein as to the claims of the plaintiff against him.

BE IT FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the application of Roger Jones to dismiss without prejudice his counter-claim against the plaintiff, Burlington Northern, Inc., is sustained and same is hereby dismissed without prejudice.

Done in open court this 16th day of June, 1981.


UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN 23 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

LAVETA SPENCER and the
SECURITY BANK & TRUST COMPANY,
Co-Guardians of the Estate of
Aaron DeWayne Spencer,

Plaintiffs,

v.

THE EMPIRE DISTRICT
ELECTRIC COMPANY,

Defendant.

NO. 80-C-25-BT ✓

ORDER APPROVING SETTLEMENT AGREEMENT,
DETERMINING LIEN CLAIM AND DECREERING
A FULL PAYMENT, ACCORD, RELEASE AND
SATISFACTION OF JUDGMENT

THIS MATTER comes on before the undersigned Judge of the United States District Court for the Northern District of Oklahoma, on this 23rd day of June, 1981, the Plaintiffs appearing by and through their attorney, Floyd L. Walker, and the Defendant appearing by and through its attorney, Joseph M. Best, the Court having for consideration the parties' request that a Settlement Agreement entered into between them be approved by the Court; and, that the Court further decree that said settlement constitutes full payment, accord, release and satisfaction of the judgment heretofore entered in this case on November 24, 1980.

The Court having examined the files and records in said cause, having examined a copy of the Settlement Agreement attached to the said Application, and being otherwise well and fully advised in the premises, finds as follows:

1. Plaintiffs are the legally appointed and constituted Co-Guardians of Aaron DeWayne Spencer, a minor. The Settlement Agreement has heretofore been duly presented to the Court having jurisdiction of said Guardianship and has been found by said Court to be in the best interest of the said minor child. *attached as Exhibit A.*

2. This Court being cognizant of the legal issues involved in the appeal finds that the issues of law are of such a nature that the outcome of the respective appeals of the parties is uncertain.

3. The Court finds that the Settlement Agreement which will require the Defendant to pay Plaintiffs a total sum of Three Hundred Fifty Thousand, Six Hundred Dollars (\$350,600.00) in three (3) payments over a two (2) year period is in the best interest of the minor Plaintiff, and the Court therefore approves said Settlement Agreement.

4. Although the amount being paid by the Defendant is less than the total judgment rendered, the Court further finds that because of the uncertainty of the outcome on appeal, the surrender by Defendant of its right to appeal together with payment of the sum described above constitutes good and sufficient consideration for Plaintiffs' execution of the said Settlement Agreement and justifies a finding of full payment, accord, release and satisfaction of the judgment entered in this case.

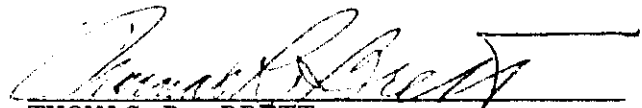
5. A lien claim in the amount of \$50,923.28 has been filed by the Oklahoma Department of Human Services for medical services rendered to Aaron DeWayne Spencer; further that due to the circumstances of the case, the needs of said minor child, the pain and suffering involved and the amount of funds available to satisfy said lien, the Court finds that the sum of \$33,948.85 be paid to the Oklahoma Department of Human Services, and said payment to extinguish all claims of said Oklahoma Department of Human Services, either by subrogation or lien for reimbursement from the Defendants herein and holds them harmless therefrom; said funds to be paid by the Defendant directly to the Oklahoma Department of Human Services as follows:

| | |
|-------------|----------------------|
| \$14,598.00 | instanter |
| \$ 9,675.42 | on 15 January, 1982 |
| \$ 9,675.43 | on 15 January, 1983. |

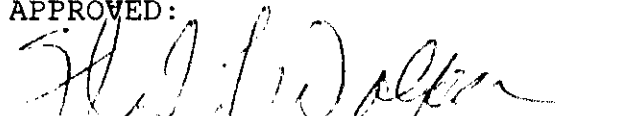
IT IS, THEREFORE, HEREBY ORDERED, ADJUDGED AND DECREED by the Court that the Settlement Agreement annexed to the Application is hereby approved.

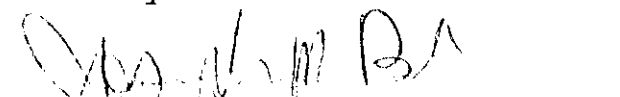
IT IS FURTHER ORDERED AND DECREED that Defendant shall pay to the Oklahoma Department of Human Services from the settlement funds the amounts set forth in Paragraph 5 above and that payment of said funds shall constitute full payment and satisfaction of said lien claim.

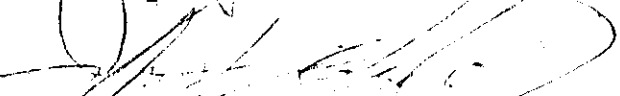
IT IS FURTHER ORDERED AND DECREED that the Settlement Agreement which provides for the payment of Three Hundred Fifty Thousand Six Hundred Dollars (\$350,600.00) to the Plaintiffs by the Defendant, together with the release of the respective rights of appeal constitutes a full payment, accord, release and satisfaction of the judgment heretofore entered on November 24, 1980.


THOMAS R. BRETT
United States District Judge

APPROVED:


FLOYD L. WALKER
Attorney for Plaintiffs


JOSEPH M. BEST
Attorney for Defendant


HERBERT K. HYDE, JR.
Attorney for the Department
of Human Services

IN THE DISTRICT COURT OF OTTAWA COUNTY, OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP OF)
AARON DeWAYNE GARRETT, SPENCER.)

No. P-80-48

ORDER APPROVING SETTLEMENT

This matter comes on for consideration on the application of the legal co-guardians of the minor child herein for approval of final settlement of the claims of the plaintiffs in case number 80-C-25-BT now on appeal before the United States Court of Appeals For the Tenth Circuit in Case Number 81-1324 wherein LaVeta Spencer and the Security Bank and Trust Company, co-guardians of the estate of Aaron DeWayne Spencer are plaintiffs and appellants respectively and the Empire District Electric Company is defendant and appellees respectively.

The Court having reviewed the files and those of counsel, having considered the statement of counsel for the plaintiff and appellant respectively together with terms of settlement of said cause proposed to dispose of same in both Courts stated, finds:

THAT the original judgement rendered for plaintiff including the jury's verdict and pre-judgement interest was for the amount of \$401,249.59 and said judgement would now include accumulating interest at the rate of 12% per annum.

THAT there are certain legal issues involved on appeal to the United States Court of Appeals For the Tenth Circuit.

THAT a compromise settlement has been reached between the plaintiff-appellants and the defendant-appellees whereby to completely settle all the claims and rights the minor child Aaron Sprencer may have under said cause the defendant appellees agree to pay to the legal co-guardians of said minor child and their attorneys of record, H. G. E. Beauchamp of Miami, Oklahoma and Floyd Walker of Tulsa, Oklahoma, a final settlement as follows:

1. The sum of \$150,000.00 upon execution of settlement documents.
2. Empire District Electric Company will make two additional payments of \$100,300.00.each.
 - (a) The first of these two payments will be made on the 15th day of January, 1982.
 - (b) The second of these two payments will be made on the 15th day of January, 1983.

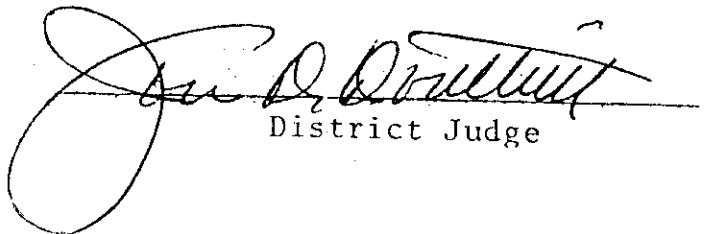
Totaling \$350,600.00.

Eschert R

The Court further finds the aforesaid compromise settlement is a fair and just settlement, all the factors considered and that it is for the best interests of said minor child that said settlement be approved.

IT IS THEREFORE HEREBY CONSIDERED, ORDERED AND ADJUDGED that the aforesaid compromise settlement be and the same is hereby approved and the co-guardians be and they are hereby authorized to conclude same.

Witness my hand this 22 day of June, 1981.


District Judge

State of Oklahoma }
Ottawa County } SS.
I, Earl Gonce, Court Clerk, do hereby certify that
the above is a full, true and complete copy of
the document in the above entitled case; Case No.
22-80-48 as the same remains on file
in my office.
In witness whereof I hereunto set my hand and
affix the seal of said Court, at Miami, Oklahoma on
the 22nd day of June 1981
EARL GONCE, Court Clerk
By Theresa E. Gonce
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 22 1981

CHELSEA TIPPLE COMPANY,)
)
Plaintiff,)
)
VS.)
)
CARBOMIN CORPORATION,)
)
Defendant,)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

NO. 81-C-220-C

STIPULATION OF DISMISSAL

It is hereby stipulated that the above entitled action may be dismissed with prejudice, and with each party to bear its own costs.

DATED this 22nd day of June, 1981.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

BY:

Richard P. Hix
RICHARD P. HIX

1200 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211
Attorneys for Plaintiff

BLACKSTOCK, JOYCE, POLLARD,
BLACKSTOCK & MONTGOMERY

BY:

J. C. Joyce
J. C. JOYCE

515 South Main Mall
Tulsa, Oklahoma 74103
(918) 585-2751
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THERMO KING CORPORATION, a
Delaware corporation, and
THERMO KING de PUERTO RICO,
INC., a Delaware corporation,

Plaintiffs,

vs.

No. 78-C-58-E

THERMO KING OF TULSA, INC.,
LLOYD A. ANDERSON and SANDRA
ANDERSON, husband and wife, and
BOULDER BANK AND TRUST COMPANY,

Defendants.

FILED

JUN 22 1981

LLOYD A. ANDERSON, SANDRA L.
ANDERSON, et ux; THERMO KING
OF TULSA, INC., TRUCK RE-
FRIGERATION CENTER, INC.,
THERMO KING OF FT. SMITH, INC.,
and WEST SKELLY INVESTMENT COM-
PANY,

Plaintiffs,

vs.

No. 78-C-92-E

THERMO KING CORPORATION, a
Delaware corporation, and
THERMO KING de PUERTO RICO,
INC., a Delaware corporation,

Defendants.

JUDGMENT OF FORECLOSURE

Upon consideration of the pleadings, the evidence presented at trial, the briefs and arguments of counsel, as is more fully set out in the Findings of Fact and Conclusions of Law filed of even date,

IT IS ORDERED, ADJUDGED AND DECREED that Judgment be and hereby is granted in favor of Plaintiffs and against Defendants in case No. 78-C-58-E on Plaintiffs' claims in that action and Judgment is granted in favor of Defendants and against Plaintiffs in case No. 78-C-92-E on Plaintiffs' claims in that action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Judgment be and hereby is granted in favor of Plaintiff Thermo King Corporation in the amount of \$111,700.32 and in favor of the Plaintiff Thermo King de Puerto Rico in the amount of \$67,992.08 as against the Defendants Thermo King of Tulsa, Inc., Lloyd A. Anderson and Sandra Anderson and further Judgment is granted ordering the foreclosure of the Real Estate Mortgage securing the promissory notes which are the subject matter of

this Judgment, together with interest on said Judgment from this date at 12% per annum until paid plus the costs of this consolidated action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiffs for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of the Defendants Thermo King of Tulsa, Inc., Lloyd A. Anderson and Sandra Anderson to satisfy the Judgments of Plaintiffs Thermo King Corporation and Thermo King de Puerto Rico, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of the Judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this Judgment and decree, the Defendants Thermo King of Tulsa, Inc., Lloyd A. Anderson and Sandra Anderson and each of them and all persons claiming under them since the filing of the Complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that costs and attorneys' fees in an amount to be fixed by Order of this Court upon hearing are granted in favor of Thermo King Corporation and Thermo King de Puerto Rico as against the Defendants Thermo King of Tulsa, Inc., Lloyd A. Anderson and Sandra L. Anderson.

It is so Ordered this 22nd day of June, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, and)
ANITA M. VAUGHN, Special)
Agent, Internal Revenue)
Service,)

Petitioners,)

vs.)

VISA, REPUBLIC BANK and TRUST,)
ET AL,)

Respondents.)

No. 81-C-212-C Consolidated
with 81-C-214-C and
81-C-216-C

F I L E D

JUN 22 1981 *je*

ORDER OF DISMISSAL

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Upon application of the United States of America
the records so summoned have been received by the United States
of America in accordance with the Court's Order.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that this
case be dismissed.

Dated this 22nd day of June, 1981.

John Salelsork
UNITED STATES DISTRICT JUDGE

**NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.**

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, and)
ANITA M. VAUGHN, Special)
Agent, Internal Revenue)
Service,)

Petitioners,)

vs.)

No. 81-C-214-C Consolidated
with 81-C-212-C and
81-C-216-C

MASTER CHARGE, REPUBLIC)
BANK and TRUST, ET AL,)

Respondents.)

F I L E D

JUN 22 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Upon application of the United States of America
the records so summoned have been received by the United States
of America in accordance with the Court's Order.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that this
case be dismissed.

Dated this 22 day of June, 1981.


UNITED STATES DISTRICT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, and)
ANITA M. VAUGHN, Special)
Agent, Internal Revenue)
Service,)

Petitioners,)

vs.)

No. (81-C-216-C) Consolidated
with 81-C-212-C and
81-C-214-C

ADMIRAL STATE BANK, ET AL,)

Respondents.)

F I L E D

JUN 22 1981

ORDER OF DISMISSAL

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Upon application of the United States of America
the records so summoned have been received by the United States
of America in accordance with the Court's Order.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that this
case be dismissed.

Dated this 22nd day of June, 1981.


UNITED STATES DISTRICT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

AMERICAN PARKING COMPANY,)
)
Plaintiff,)
)
v.) No. 80-C-521-E
)
SOUTHERN SPECIALTIES)
CORPORATION,)
)
Defendant.)

FILED

JUN 22 1981

U.S. DISTRICT COURT

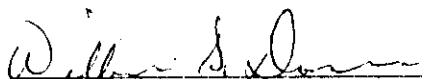
ORDER OF DISMISSAL WITH PREJUDICE

On this 22nd day of June, 1981 there comes
on for hearing the application for Order of Dismissal With
Prejudice of the plaintiff's cause. The Court, being fully
advised, grants plaintiff's Application to Dismiss with
Prejudice.

It is ordered.



U.S. District Court Judge



William S. Dorman
320 South Boston, Suite 1401
Tulsa, Oklahoma 74013
(918) 582-8201
Attorney for American Parking Company

NOTE: THIS ORDER IS TO BE MAILED
BY MAIL TO ALL COUNSEL AND
PRO SE PLAINTS IMMEDIATELY
UPON RECEIPT.

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 22 1981 dm

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JACKIE E. DICK and)
DEBRA J. DICK,)
)
Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL NO. 81-C-118-E ✓

NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein,
by and through its attorney, Paula S. Ogg, Assistant United States
Attorney for the Northern District of Oklahoma, and hereby gives
notice of its dismissal, pursuant to Rule 41, Federal Rules of
Civil Procedure, of this action without prejudice.

Dated this 22d day of June, 1981.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney



PAULA S. OGG
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy
of the foregoing pleading was served on each
of the parties hereto by mailing the same to
them or to their attorneys of record on the
22d day of June, 1981



Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF OKLAHOMA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

FAIRMONT HOTEL COMPANY
d/b/a The Fairmont Mayo
Hotel, and GATEWAY STANDARD,
INC., d/b/a The Mayo,

Defendants

CIVIL ACTION NO.

80-398-E

FILED

JUN 19 1981

ORDER

On the 19th day of June, 1981, came
before this Court Plaintiff, Equal Employment Opportunity
Commission's Notice of Dismissal of the Defendant, the Fairmont
Hotel Company, d/b/a The Fairmont Mayo from the above entitled
action, with prejudice to refiling by Plaintiff.

It appearing that this cause has been fully settled,
adjusted and compromised by the approval of a Consent Decree
and the Dismissal of the action against Gateway Standard, Inc.

It is ORDERED, ADJUDGED and DECREED that the Plaintiff's
action against the Fairmont Hotel Company is dismissed with
prejudice to refiling by the Plaintiff.

Dated June 19,, 1981.

James O. DeLoach
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HELEN HARRIS, and
NATHANIEL HARRIS, individually
and on behalf of Patricia and
Matthew Harris, his two minor
children,

Plaintiffs.

vs.

OKLAHOMA COMMISSION FOR HUMAN
SERVICES,
OKLAHOMA DEPARTMENT OF HUMAN
SERVICES, and
L.E. RADER, in his official
capacity as Director of
Oklahoma Department of Human
Services, and REGINALD D. BARNES
Chairman, ROBERT M. GREER, Vice-
Chairman, WILBUR D. CAVE, W. E.
FARHA, LEON N. GILBERT, M.D., MRS.
ROBERT I. HARTLEY, WENETTE W.
PEGUES, ED.D., JOE D. VOTO, and
CARL E. WARD, O.D., in their
official capacity as members of
the Oklahoma Commission for
Human Services,

Defendants.

FILED

JUN 18 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION

NO. 80-C-674-B

STIPULATED ORDER OF DISMISSAL

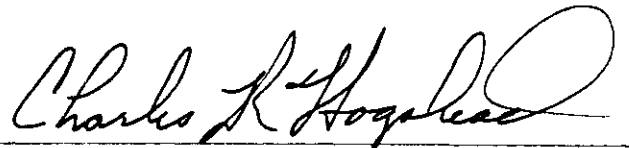
IT IS HEREBY STIPULATED, by and between counsel for all
parties hereto, subject to the approval of the Court as follows:

1. Defendants have agreed to change, and, as of February 1,
1981, have implemented a change in the Department of
Human Services [DHS] Manual §§ 331.725 (A) (1) and
331.725 (A) (2). The resulting section, DHS Manual
§ 331.725 (A), removes any disparate classification
between stepmothers and stepfathers. A copy of the
revised DHS Manual §331.725 is attached hereto as
Appendix I and incorporated herein.
2. Defendants have reversed the August 20, 1980, decision of
the Appeals Committee which is the basis of Plaintiffs'
complaint. A copy of the notice of reversal is attached

hereto as Appendix II and incorporated herein.

3. Defendants agree to reimburse plaintiffs, or their attorney for all costs incurred in the initiation of the above-captioned claim, such costs being filing fees and service charges.
4. All claims persented by the complaint and arising from the factual allegations raised in said complaint shall be dismissed with prejudice as to all parties pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

Dated: 8th day of June, 1981.



CHARLES R. HOGSHEAD
Attorney for the Plaintiffs

Legal Services of Eastern Oklahoma, Inc.
20 East Fifth, Suite 604
Tulsa, Oklahoma 74103
(918) 584-3338



RUSSELL D. HALL
Attorney for the Defendants

Department of Human Services
P.O. Box 25352
Oklahoma City, Oklahoma 73125
(405) 521-3508

So Ordered This 18th Day Of June, 1981:

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPENDIX I

STATE OF OKLAHOMA *Exhibit A*
DEPARTMENT OF HUMAN SERVICES

January 23, 1981

81- 25

TO: COUNTY ADMINISTRATORS
FIELD REPRESENTATIVES
DAP SUPERVISORS

FROM: L. E. RADER
DIRECTOR OF HUMAN SERVICES

SUBJECT: MANUAL MATERIAL
Section 330

REMOVE:

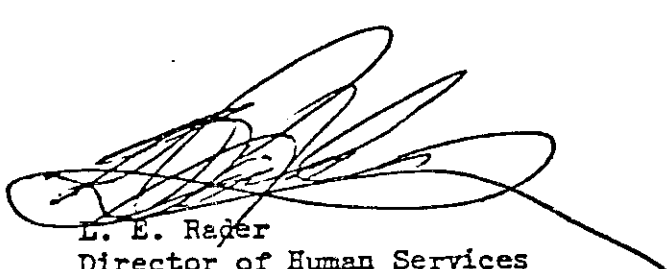
Section 330, pages 29-32

INSERT:

Section 330, pages 29-32, Revised
2-2-81

EXPLANATION:

Manual 331.725 is being revised to clarify that consideration of a stepmother's and a stepfather's income and resources are treated the same. Therefore, any reference to stepfather and stepmother has been replaced by the term stepparent.


L. E. Rader
Director of Human Services

- 331.723 Concurrent Receipt of AFDC and Supplemental Security Income. An individual may not be included in AFDC for the same month during which he or she was included in a Supplemental Security Income payment. The individual does have a choice as to which program (AFDC or SSI) would best meet his or her needs and if otherwise eligible may receive under that program.

Applicants and recipients are informed by the Department of their responsibility to report to the Department if any member of their family living in the home, makes application for SSI or becomes eligible for SSI and also to report to the SSA if any family member living in the home, has made application for AFDC or is receiving AFDC when the family member makes an application for SSI. The local office notifies the Social Security District Office with an SSA-1610, when an AFDC recipient is certified or terminated for a money payment, if the recipient has also applied for SSI.

- 331.724 Concurrent Receipt of More Than One Form of Public Assistance. No person who is included in an AFDC payment may, for the same period, be included in another payment from AFDC or from ABD. A person who is the payee for an AFDC payment, but who is not included in that payment, is not precluded from being a recipient of ABD if he meets the eligibility requirements for ABD. When a recipient of AFDC or ABD is to be transferred to another of these categories, the effective date must be the same for the removal from one category and the beginning of payment from the other category.

- 331.725 Stepparent or Person Acting in the Role of a Spouse - Capital Resources, Income and Care.

A. Stepparent.

1. Stepparent. If a stepparent (by legal marriage to or common law relationship with the parent) of the children for whom AFDC is requested is living in the home with the children and their parent (natural or adoptive), it is assumed that the stepparent is willingly providing support to the children unless the parent and the stepparent establish otherwise.

If the parent states that the stepparent is not supporting the children or is not willing to support them, the assistance payments worker is responsible for interviewing the stepparent to determine why he/she is not fully supporting or is unwilling to support the stepchildren. If the stepparent has income from any source and says he/she is not fully supporting the children or will not support them in the immediate future, the parent is requested to present a copy of the last federal income tax report filed, in order to verify the exemptions being claimed. If a copy of the income tax report is not available (or if the marriage occurred after the last income tax report was filed), the parent is

is responsible for presenting a written statement from the stepparent's employer as to the number of exemptions currently claimed. (Claiming a dependent for income tax purposes indicates that the taxpayer is paying more than one-half of the dependent's needs.) If the children are being claimed as exemptions for income tax purposes, the assistance payments worker must interview the stepparent and the parent to determine from them the monetary amount of support and to obtain a written statement from them as to this amount. If the stepparent, who claims the children as dependents for income tax purposes, and the parent refuses to supply a monetary amount or state no support is being provided, eligibility cannot be determined.

If the parent and stepparent fail to follow these procedures in establishing eligibility, the application is denied, or the grant discontinued, in accordance with regular procedures based on insufficient information on which to make a decision as to eligibility.

When the amount of support a stepparent makes available to his/her step-children is equal to or in excess of the Agency standard, the children are not eligible for AFDC. In addition to the support which the stepparent is making available, the countable income and resources of the parent, even though he/she is not included in the grant, are considered available to his/her children.

a. Reserve. When the stepparent refuses to make his/her portion of the reserve available to all of the family, the reserve maximum is \$1500 for the own parent plus \$50 for each eligible child. Only the own parent's and children's available reserve is considered in determining the children's need. The own parent's available reserve consists of those items of reserve which he/she owns exclusively and one-half of those items owned jointly with the stepparent. If the stepparent makes his/her resources available, the reserve maximum is \$2250 for the parents plus \$50 for each child in the AFDC grant.

b. Real Estate Owned and Used as Shelter.

* Real estate owned and used as shelter is considered according to Manual 331.111, Home Property.

c. Income. Since, according to State Law the stepparent is responsible for the needs of his/her spouse and his/her children, the parent's total unearned income and countable net earned income (gross minus work related

expenses and child care expenses and applicable disregards - see Manual 331.64, J, 2) is considered available to his/her children who are included in the assistance plan. In addition, any income which the stepparent makes available to his/her stepchildren is considered as a contribution and if the total combined income meets or exceeds AFDC standards for the children, they are not eligible for AFDC.

★

- B. Person Acting in the Role of a Spouse. When there is a person living in the home with the natural or adoptive parent who is not a spouse by legal marriage to or common-law relationship with the own parent but who is acting in the role of a spouse, the worker is responsible for interviewing this person to determine willingness to provide support for the children and the parent. The worker determines from an interview with this person the amount of income and/or resources that will be made available to meet the needs of the children and the parent. The parent is required to sign a statement as to the amount of this individual's income being made available to the children and the parent (or that no support is being provided) before need can be determined.

If the individual refuses to contribute to their support, the parent must verify by a copy of the last federal income tax return and/or statement from the employer that the children and parent are not being claimed as exemptions for income tax purposes.

If the parent fails to follow these procedures the application is denied or the grant discontinued in accordance with regular procedures based on insufficient information on which to make a decision as to eligibility.

- 331.726 Parent Living in the Home not Included in the Grant. When there is a natural or adoptive parent(s) living in the home who is not included in the AFDC grant because the individual: (1) refused to register or participate in the Work Registration Programs, (2) refused to assign support rights or to cooperate in an effort to obtain child support, or (3) is an alien who was not legally admitted to the U.S. for permanent residence, the parent's total unearned income plus countable net earned income (gross minus work related expenses and child care expenses and applicable disregards - see Manual 331.64, J, 2), excluding children's income

(Continued on page 33)

APPENDIX II

EXH. B. 1 D



STATE OF OKLAHOMA
OKLAHOMA COMMISSION FOR HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES
(Department of Public Welfare)

Sequoyah Memorial Office Building
OKLAHOMA CITY, OKLAHOMA - 73125

L. E. RADER
Director of Human Services

Mailing Address: P. O. Box 25352

December 16, 1980

Mr. Nathaniel Harris
2720 N. Boulder
Tulsa, Oklahoma 74106

Re: Appeals Decision
Nathaniel Harris
C-571570

Dear Mr. Harris:

As Director, I have exercised my prerogative to reconsider the decision of the Appeals Committee and have decided to reverse their ruling. The regulation with regard to rebutting the presumption that income of a stepfather is available to his stepchildren will be applied equally to a stepmother and her stepchildren.

Although receiving a favorable decision on the issue presented to the Appeals Committee, it is still necessary for you to meet the other requirements of the eligibility process; for example, income, resources and work registration, etc.

Very truly yours,

L. E. Rader
Director of Human Services

cc: Charles R. Hogshead
23 W. 4th St., Suite 200
Tulsa, Oklahoma 74103

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 18 1981 *pt*

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Plaintiff,

v.

BETSY MONTGOMERY, et al.,

Defendants.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-352-B ✓

O R D E R

The Court has for consideration the Findings and Recommendations of the Magistrate filed June 2, 1981 in which it is recommended that the action as to Betsy Montgomery and her claim be dismissed pursuant to Rule 41(b), Fed.R.Civ.P. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the matters presented to it, the Court has concluded that the Findings and Recommendations of the Magistrate should be and hereby are affirmed.

It is hereby Ordered that the action as to Betsy Montgomery and her claim is hereby dismissed pursuant to Rule 41(b), Fed.R.Civ.P.

Dated this 18th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 18 1981

ISAIAH L. BUTCHER and
VIRGINIA BUTCHER,

Plaintiffs

v.

UNITED STATES OF AMERICA,

Defendant

CIVIL NO. CIV-80-688-B

U.S. DISTRICT COURT


AGREED ORDER

The Court, having been advised that the parties have reached an amicable settlement of this action, wherein Plaintiff Isaiah L. Butcher agrees that he will pay the Internal Revenue Service the outstanding balance for his 1978 federal income taxes on or before July 1, 1981, and that, should he fail to do so, Plaintiffs Isaiah L. Butcher and Virginia Butcher agree that the property located at 3616 North Lansing Place, Tulsa, Oklahoma, may be sold by the Internal Revenue Service, and that the Internal Revenue Service agrees that it will delay the sale of said property until after July 1, 1981 so as to allow plaintiffs an opportunity to pay said taxes, and the Court, being satisfied that the settlement is fair and just with respect to all the parties, it is hereby

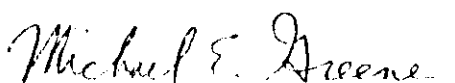
ORDERED that the preliminary injunction dated January 7, 1981 is dissolved, and that plaintiffs may recover their bond from the Clerk of the Court; and

IT IS FURTHER ORDERED that each party is to bear his own costs, including attorneys' fees, incurred in this matter.

So ORDERED this 18 day of June, 1981.


THOMAS R. BRETT
United States District Judge
Northern District of Oklahoma

APPROVED:


MICHAEL E. GREENE
Attorney for Defendants


JOSEPH R. FARRIS
Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CHARLES C. McCARTY and
CORA L. McCARTY,

Plaintiffs,

vs.

FIRST OF GEORGIA INSURANCE
COMPANY, an insurance company,

Defendant.

No. 81-C-29-BT

FILED

JUN 18 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Plaintiffs bring this action against the defendant insurance company for failure to deal fairly and bad faith in connection with a fire insurance policy.^{1/}

Defendant insurance company has moved for summary judgment pursuant to F.R.Civ.P. 56. At pre-trial hearing on May 7, 1981, the Court heard oral argument of the parties and plaintiffs were granted until May 18, 1981, to file their response to the defendant's motion. The Court finds the motion should be sustained for the following reasons:

Plaintiff previously filed an action on May 1, 1978 in the District Court of Osage County, which was removed to this Court [78-C-230-C].^{2/} Plaintiffs contended in that suit the defendant insurance company had issued a policy of insurance on their home and that the house was destroyed by fire on May 18, 1976 shortly after issuance of the policy. Defendant insurance company denied liability in a letter sent to plaintiffs on February 7, 1977. Plaintiffs thereafter filed a complaint with the Oklahoma Insurance Commission sometime in February or March of 1977. The proceedings before the Insurance Commission were dismissed in

-
- ^{1/} This action was commenced on December 24, 1980 in the District Court of Osage County and removed to this Court.
- ^{2/} The Court takes judicial notice of the case of "Charles C. McCarty and Cora L. McCarty v. First of Georgia Insurance Company," No. 78-C-239-C, United States District Court for the Northern District of Oklahoma.

January of 1978 for lack of jurisdiction. The defendant insurance company filed a Motion for Summary Judgment in 78-C-230-C on the ground the plaintiffs failed to initiate legal action within one year from the inception of the loss as provided by Title 36 O.S.A. §4803(b) and (g). For the purposes of the Motion for Summary Judgment only the defendant insurance company stipulated it had issued the policy.^{3/} In accordance with 36 O.S.A. §4803(b) and (g), plaintiffs' alleged policy contained the following provision:

"No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity ... unless commenced within twelve months next after inception of the loss."

On January 24, 1979, Judge Cook entered an Order in 78-C-230-C sustaining the Motion for Summary Judgment on the issue of limitations and no appeal was taken.

Defendant insurance company predicates its Motion for Summary Judgment on the following grounds: (i) that plaintiffs have split their cause of action^{4/} and their present action for an alleged tort should have been raised in the previous litigation; (ii) that the action is barred under the doctrine of res judicata because of the January 24, 1979 Order in 78-C-230-C.^{5/} Plaintiffs, on the other hand, contend the action in 78-C-230-C was based on contract, while the present case is a tort action based on the theory of Christian v. American Home Assurance Company, 577 P.2d 899 (Okla. 1977). Plaintiffs contend in their brief that "[W]hile the plaintiffs were seeking help through the Insurance Commissioner of the State of Oklahoma, after the defendant refused to pay the policy, the statute of limitation ran upon the claim

^{3/} Defendant insurance company contended in 78-C-230-C no valid policy of insurance had been issued and has never changed its position in this regard.

^{4/} In the prior suit, 78-C-230-C, plaintiffs claimed the sum of \$14,950.00 for breach of the insurance contract [policy limits of \$15,000.00 less the \$50.00 deductible]. In this action plaintiffs seek actual damages for the tort of failure of the defendant insurance company to act in good faith and treat its insured fairly in the amount of \$14,950.00 and punitive damages in the amount of \$650,000.00.

^{5/} Defendant insurance company contends absent a showing of a valid claim, plaintiffs cannot seek damages for bad faith.

upon the policy itself." It is the plaintiffs' position the denial of the existence of a valid policy of insurance by the defendant insurance company was false and it thereby breached its duty to act in good faith and deal fairly with the insured. Plaintiffs further contend they did not discover the alleged false denial until after the January 24, 1979 Order in 78-C-230-C.

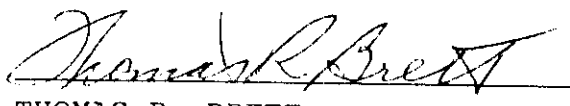
The existence of a valid claim on the insurance policy is a prerequisite for the maintenance of this action. In the Christian case, supra, 577 P.2d 899, the primary question before the Court was whether an insurance company could be subjected to liability in tort for a willful, malicious and bad faith refusal to pay a valid insurance claim. Plaintiffs brought action on the policy and it became apparent during the trial the insurance company did not have, and never had a valid defense to the plaintiff's claim. In fact, as noted by the Court, it was not until the action was about to be submitted to the jury that the plaintiff discovered defendant insurance company had acted in bad faith. The plaintiff recovered judgment on the policy which was paid by the insurance company. He thereafter brought an action for tortious breach of the insurance company's duty and sought recovery of the attorney fees and litigation costs expended in the first suit, compensatory damages for mental suffering and distress, and punitive damages. The Court acknowledged the elementary rule "[t]hat a cause of action cannot be split or divided and made the subject of several suits, but that plaintiff must include in one action all of the various items of damage he has suffered from a defendant's wrong." The exception noted was "[W]here plaintiff's omission of an item of his cause of action was brought about by defendant's fraud, deception or wrongful concealment, the former judgment has been held not to be a bar to suit on the omitted part of the claim." Id. at 905. The Christian Court said "[R]esort to a judicial forum is not per se bad faith or unfair dealing on the part of the insurer regardless of the outcome of the suit. Rather, tort liability may be

imposed only where there is a clear showing that the insurer unreasonably, and in bad faith, withholds payment of the claim of its insured." Id. at 905. The validity of the claim, an insurance policy in force and effect, was established in the Christian case, supra. Here the validity of the claim cannot be litigated in this action because of the prior holding in 78-C-230-C that the insured's claim was barred by the applicable period of limitation. The fact plaintiffs chose to pursue their dispute with the insurance company through the offices of the State Insurance Commissioner and not by litigation within the statutory time limit cannot be attributed to the defendant insurance company. The untimeliness of plaintiffs' first claim on the policy resulted in a final judicial determination that although there may have been an insurance policy, no valid claim could be made thereon.

The Court finds there is no dispute as to any material fact and as a matter of law the defendant insurance company is entitled to summary judgment. F.R.Civ.P. 56(c); Miller v. United States, 67 F.R.D. 486, 489 (DC 1975).

IT IS, THEREFORE, ORDERED the defendant's Motion for Summary Judgment is sustained.

ENTERED this 18th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CHARLES C. McCARTY and)
CORA L. McCARTY,)
)
Plaintiffs,)
)
vs.)
)
FIRST OF GEORGIA INSURANCE)
COMPANY, an insurance company,)
)
Defendant.)

No. 81-C-29-BT

FILED

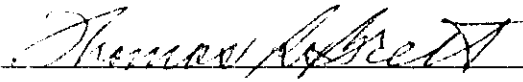
JUN 18 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

Based on the Order filed this date, IT IS ORDERED Judgment is entered in favor of the defendant, First Georgia Insurance Company, and against the plaintiffs, Charles C. McCarty and Cora L. McCarty, each party to bear their own costs and attorney fees.

ENTERED this 18th day of June, 1981.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN 18 1981

U.S. DISTRICT COURT

FARAH WALI RAHMAAN,

Plaintiff,

vs.

L. T. BROWN, et al.,

Defendants.

No. 81-C-42-E

O R D E R

This is a pro se civil rights complaint brought under 42 U.S.C. § 1983. The Court allowed the complaint to be filed in forma pauperis pursuant to the power vested in this Court in 28 U.S.C. § 1915, subsection a. Plaintiff bases his complaint on the alleged theft of his watch from his cell at the Conners Correctional Center, alleging that the theft was occasioned by prison officials failure to fix the lock on Plaintiff's cell door.

Following the directive of the Tenth Circuit in Martinez v. Aaron, 570 F.2d 317, 319 (Tenth Cir. 1978), this Court requested the Oklahoma Department of Corrections to submit a report reviewing the subject matter of Plaintiff's complaint. The Court requested this report in order to make clear the basis for the allegations contained in Plaintiff's complaint. The report was filed on April 3, 1981.

Although pro se complaints are to be liberally construed, Hanes v. Kerner, 404 U.S. 519, 520 (1972), it is clear that there is no constitutional right of access to the courts to prosecute a frivolous action. Phillips v. Carey, 638 F.2d 207, 208 (Tenth Cir. 1981). Under 28 U.S.C. § 1915, subsection d, if the Court finds a case to be frivolous, improper or obviously without merit, the Court should dismiss the case. Smart v. Villar, 547 F.2d 112, 113 (Tenth Cir. 1976); Redford v. Smith, 543 F.2d 726, 728 (Tenth Cir. 1976); Harbolt v. Alldredge, 464 F.2d 1243, 1244 (Tenth Cir. 1972), cert. denied, 409 U. S. 1025 (1972).

A forma pauperis complaint is frivolous or without merit if the Plaintiff can make no rational argument on the facts or the law to support his claim. Martinez, supra at 318; Collins v. Hladky, 603 F.2d 824, 825 (Tenth Cir. 1979).

In the case at bar, Plaintiff's complaint alleges that due to Defendant's negligence, Plaintiff's wristwatch, valued by Plaintiff at \$500.00, was stolen from Plaintiff's cell. The Corrections Department report indicates that there was a malfunction of the locking system on Plaintiff's cell. The cell would lock, but could only be unlocked by a guard. Plaintiff himself had no key which would unlock the cell. At the time the theft occurred, the record reveals that Plaintiff had gone to take a shower and by his own choice had left the door to his cell unlocked. Under these facts and circumstances, it is impossible for this Court to find a violation of Plaintiff's constitutional rights under 42 U.S.C. § 1983.

This Court is convinced, after a careful review of both Plaintiff's pleadings filed herein and the Corrections Department report, that Plaintiff's complaint has no merit and should therefore be dismissed.

Accordingly, based upon these facts and upon the applicable law, this Court finds that the case at bar should be dismissed pursuant to 28 U.S.C. § 1915(d).

IT IS THEREFORE ORDERED that this case should be and the same is hereby dismissed.

It is so Ordered this 13th day of June, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

United States of America,)
)
Plaintiff,)
)
vs.)
)
400.00 Acres of Land, More or)
Less, Situate in Osage County,)
State of Oklahoma, and D.)
Joseph Fingerlin, et al., and)
Unknown Owners,)
)
Defendants.)

CIVIL ACTION NO. 76-C-495Bt

Tract No. 102

FILED

JUN 18 1981

J U D G M E N T

1.
NOW, on this 18th day of June, 1981, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Commissioners' Report filed herein on February 11, 1981, and the Court, after having examined the files in this action and being advised by counsel for the parties, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This judgment applies to the entire estate taken in Tract No. 102, as such estate and tract are described in the Complaint and the Declaration of Taking filed in this action.

4.

Service of Process has been perfected either personally or by publication notice as provided by Rule 71A of the Federal Rules of Civil Procedure on all parties defendant in this cause, who are interested in subject tract.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on September 29, 1976, the United States of

America filed its Declaration of Taking of a certain estate in such tract of land, and title to such property should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of a certain estate in the subject tract a certain sum of money, and all of this deposit has been disbursed, as set out below in paragraph 11.

7.

The Commissioners' Report filed herein on February 11, 1981, has been accepted and approved by the Court. The amount of just compensation as to the subject tract as fixed by the Commission and adopted by the Court is set out below in paragraph 11.

8.

This judgment will create an overdeposit in the deposit for Tract No. 102, and an overpayment to the owners of this tract. The Plaintiff should have judgment against the owners of Tract No. 102 for the overpayment to them.

9.

The defendants named in paragraph 11 as owners of the subject tract are the only defendants asserting any interest in the estate condemned in this action. All other defendants having either disclaimed or defaulted, the named defendants were the owners as of the date of taking, of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of the estate described in such Complaint, is condemned, and title to such estate is vested in the United States of America, as of

the date of filing the Declaration of Taking, and all defendants herein and all other persons are forever barred from asserting any claim to such estate.

11.

It Is Further ORDERED, ADJUDGED and DECREED that the right to receive the just compensation for the estate taken herein in subject tract is vested in the defendants whose names appear below in this paragraph; the Commissioners' Report filed February 11, 1981 hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the estate taken in subject tract, as shown by the following schedule:

TRACT NO. 102

OWNERS:

D. Joseph Fingerlin and
Lena Ellen Fingerlin (H&W, JT)
subject to a mortgage held by
The Federal Land Bank of Wichita

(Since the filing of this case the deposit was disbursed jointly to the owners and mortgagee. The said mortgagee has acknowledged satisfaction of the mortgage and has disclaimed any further interest in the subject property.)


| | | |
|---|-------------------|-------------------|
| Deposited as estimated compensation ----- | \$160,500.00 | \$160,500.00 |
| Disbursed to owners ----- | <u>160,500.00</u> | |
| Award of just compensation pursuant to Commissioners' Report ----- | | <u>147,690.00</u> |
| Overdeposit and overpayment to owners ----- | | \$ 12,810.00 |

12.


It Is Further ORDERED that the Plaintiff, United States of America, have judgment against D. Joseph Fingerlin and Lena Ellen Fingerlin for the overpayment made to them from the deposit for Tract No. 102, in the amount of \$12,810.00, together with interest thereon at the rate of 6% per annum from the date of filing this judgment until payment be made.

To make payment of this judgment D. Joseph Fingerlin and Lena Ellen Fingerlin shall deposit the amount of the judgment, together with all accrued interest, with the Clerk of the United States District Court for the Northern District of Oklahoma.

When payment of this judgment against D. Joseph Fingerlin and Lena Ellen Fingerlin has been made, the Clerk of this Court shall disburse the full amount of the payment to the Treasurer of the United States.


UNITED STATES DISTRICT JUDGE

APPROVED:


HUBERT A. MARLOW
Assistant United States Attorney


CECIL G. DRUMMOND and

BRUCE W. GAMBILL
Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 18 1981

John C. Silver, Clerk
U. S. DISTRICT COURT


WARREN SPAHN, ET AL.,
Plaintiffs,
vs.
ROSENTHAL COMMODITIES CO.,
Defendant and 3rd
Party Plaintiff,
vs.
ROBERT HUFFMAN, ET AL.,
3rd Party Defendant.

No. 79-C-66-BT ✓

O R D E R

This matter comes on for hearing pursuant to Plaintiffs' Application to Dismiss as to separate plaintiff, Michael H. Treat. The Court having examined the record finds that Defendant has no objection to said dismissal and that same should be granted instanter.

IT IS THEREFORE ORDERED that the Application of separate Plaintiff, Michael H. Treat, to dismiss without prejudice his action against the Defendant, and it is, hereby granted instanter.



Judge of the District Court

6-18-81

NOTE: THIS ORDER IS TO BE FILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

CERTIFICATE OF MAILING

I, Joe H. Witherspoon, hereby certify that on the 12 day of June, 1981, I mailed a true and correct copy of the above and foregoing Order to: Clinton Burr, Attorney At Law, 141 West Jackson Blvd., Suite 105, Chicago, Illinois 60604 and to Robert A. Huffman, Jr., Attorney At Law, Huffman, Arrington, Scheurich & Kihle, Fifth Floor, Oklahoma Natural Bldg., Tulsa, Oklahoma 74119 with sufficient postage thereon fully prepaid.



Joe H. Witherspoon

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

PHYLLIS J. CORNELIUS and)
ERNEST H. CORNELIUS,)
)
Plaintiffs,)

vs.)

DARRIELL T. PIGOTT,)
JACK WARD FREEMAN,)
PROFESSIONAL BUSINESSMEN'S)
ASSOCIATION, LTD., and)
MARKETWAYS, INC.,)
)
Defendants.)

No. 80-C-534-C

FILED

JUN 17 1981

JUDGMENT

Pursuant to the Order of this Court entered on the 11^m
day of June, 1981, wherein defendant, Jack Ward Freeman,
was found to be in default for his failure to advise the
Court of his reasons for failure to appear at pretrial conference
of May 13, 1981, plaintiff, Ernest H. Cornelius, is hereby
granted judgment against defendant, Jack Ward Freeman, in
the sum of \$25,000.00, and plaintiff, Phyllis J. Cornelius,
is hereby granted judgment against defendant, Jack Ward
Freeman, in the sum of \$5,000.00.

Dated this 17^m day of June, 1981.

151 H. Dale Cook
H. DALE COOK
United States District Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 17 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
ROBIN M. MORELAND,)
)
Defendant.)

CIVIL ACTION NO. 81-C-194-E ✓


DEFAULT JUDGMENT

This matter comes on for consideration this 16th
day of June, 1981, the Plaintiff appearing by Paula S. Ogg,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, Robin M. Moreland, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Robin M. Moreland, was
personally served with Summons and Complaint on May 4, 1981
and that Defendant has failed to answer herein and that default
has been entered by the Clerk of this Court.

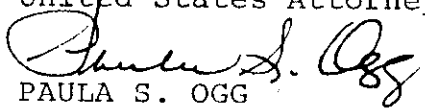
The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to the
Complaint has expired, that the Defendant has not answered or
otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, Robin M.
Moreland, for the principal sum of \$1,311.40 plus interest at
the legal rate from the date of this Judgment until paid.


UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney


PAULA S. OGG
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SOUTHPORT EXPLORATION, INC.,)
a Delaware corporation,)

Plaintiff,)

vs.)

NO. 79-C-467-E

HCW DRILLING PARTNERSHIP)
1978-1, a limited partnership,)
JOHN M. PLUKAS, an individual,)
and ROBERT A. GLASSMAN, an)
individual,)

Defendants.)

FILED

JUN 17 1981

Jack C. Silver, Clerk

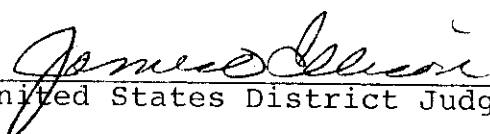
U.S. DISTRICT COURT

ORDER DISMISSING AMENDED COMPLAINT AND
SECOND AMENDED ANSWER AND
AMENDED COUNTER-CLAIMS WITH PREJUDICE

ON the foregoing Stipulation of Dismissal With
Prejudice of the parties herein, Plaintiff, Southport Exploration,
Inc., by its attorneys of record, and Defendants, HCW Drilling
Partnership 1978-1, Robert A. Glassman, and John M. Plukas, by
their attorneys of record;

IT IS HEREBY ORDERED that the above entitled action be,
and it hereby is, dismissed with prejudice to all parties, and
that the Second Amended Answer and Amended Counter-Claims of
Defendants, HCW Drilling Partnership 1978-1, Robert A. Glassman,
and John M. Plukas be, and they hereby are, dismissed with
prejudice to all parties.

DATED this 16th day of June, 1981.


United States District Judge

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

OMAR KRISTJANSSON,

Plaintiff,

vs.

JACK ERVIN,

Defendant,

CIVIL ACTION FILE NO. 80-C-648-BT ✓

FILED

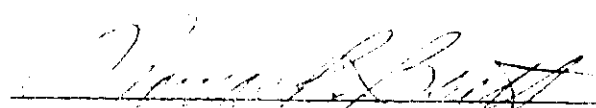
JUN 17 1981


JUDGMENT

This action came on for trial before the Court and a jury, Honorable Thomas R. Brett, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdicts for the Plaintiff.

It is Ordered and Adjudged upon the finding of the jury in favor of the Plaintiff, Omar Kristjansson, and against the Defendant, Jack Ervin, damages are assessed in the sum of \$30,000.00, and punitive damages in the sum of \$250.00, with interest at the rate of 10% per annum from the date of filing of the complaint, November 17, 1980, to the date of judgment, June 17, 1981, and interest at the rate of 12% per annum from the date of judgment until paid, plus costs of the action.

Dated at Tulsa, Oklahoma, this 17th day of June 1981.


HONORABLE THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE


Clerk of Court
e
JACK C. SILVER

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

OMAR KRISTJANSSON and
GUDLAGUR ELIASSON,

Plaintiffs,

-vs-

JACK ERVIN,

Defendant.

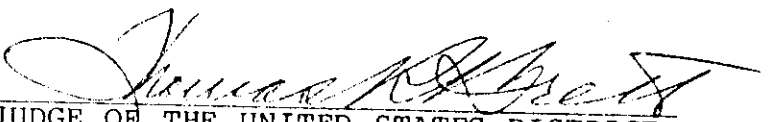
FILED
IN OPEN COURT
JUN 16 1981
Jack C. Silver, Clerk
U. S. DISTRICT COURT

NO. 80-C-648-B

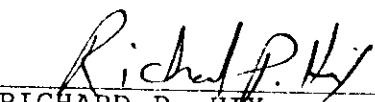
ORDER OF DISMISSAL

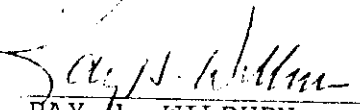
On this 16 day of June, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action as to Gudlaugur Eliasson only, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action as to plaintiff Gudlaugur Eliasson only, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff Gudlaugur Eliasson only filed herein against the defendant be and the same hereby is dismissed with prejudice to any future action.


JUDGE OF THE UNITED STATES DISTRICT
COURT, NORTHERN DISTRICT

APPROVED AS TO FORM:


RICHARD P. HIX
Attorney for Plaintiff


RAY H. WILBURN
Attorney for Defendant

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CITICORP PERSON TO PERSON
FINANCIAL CENTER, INC.,

Plaintiff,

vs.

No. 81-C-202-B

FRANKEY E. CROSS, EVELYN'S
NURSING SERVICE, INC., a
corporation, STOREY WRECKER
SERVICE, INC., a corporation
and THE UNITED STATES OF
AMERICA,

Defendants.

JUN 17 1981

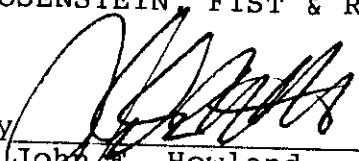
NOTICE OF DISMISSAL

Plaintiff, Citicorp Person to Person Financial Center, Inc., hereby dismisses, without prejudice, all counts which it has plead against Defendant, Storey Wrecker Service, Inc., but preserves all counts against the remaining defendants.

Respectfully submitted,

ROSENSTEIN, FIST & RINGOLD

By


John E. Howland
528 South Main, Suite 300
Tulsa, Oklahoma 74103
(918) 585-9211

Attorneys for Plaintiff


CERTIFICATE OF MAILING

I, John E. Howland, do hereby certify that on the 17th day of June, 1981, I mailed a true and correct copy of the foregoing NOTICE OF DISMISSAL, with proper postage thereon fully prepaid, to:

Charles Michael Barkley
Utica National Bank Building
1924 South Utica Avenue, Suite 510
Tulsa, Oklahoma 74104
Attorney for Defendant,
Storey Wrecker Service, Inc.

Hubert A. Marlow,
Assistant U.S. Attorney
U.S. Attorney's Office
333 West 4th, Room 460
Tulsa, Oklahoma 74103

Gerald D. Swanson
711 Thurston National Building
Tulsa, Oklahoma 74103
Attorney for Defendants, Frankey E. Cross
and Evelyn's Nursing Services, Inc.


John E. Howland

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION FILE NO. 80-C-259-C ✓

BURLINGTON NORTHERN, INC.,

Plaintiff,

vs.

HENRY FLOOD and GENE FLOOD, d/b/a
FLOOD & SON, a partnership and
GARY DWAYNE MEDLOCK,

JUDGMENT

Defendants.

This action came on for trial before the Court and a jury, Honorable H. DALE COOK
United States District Judge, presiding, and the issues having been duly tried and
the jury having duly rendered its verdict,

It is Ordered and Adjudged that the Plaintiff, Burlington Northern, Inc.
have and recover of the defendants, Henry and Gene Flood, d/b/a Flood
& Son, and Gary Dewyne Medlock, the sum of \$10,206.23.

IT IS FURTHER ORDERED AND ADJUDGED that the defendant, Gary Dwayne
Medlock, take nothing on his counterclaim against the plaintiff,
Burlington Northern, Inc., and that judgment be entered in favor of
said plaintiff and against the defendant, Gary Dwayne Medlock.

FILED

JUN 17 1981 *pm*J. C. Silver, Clerk
U. S. DISTRICT COURT

Dated at Tulsa, Oklahoma
of June , 19 81.

, this 17th day

Paul C. Silver
Clerk of Court
⊕

JUDGE

CERTIFICATE OF DELIVERY

Geo. P. Striplin hereby certifies that on this _____ day of June, 1961, he personally delivered a true and correct copy of the above and foregoing instrument by handing a copy of same to Richard B. Noulles, Attorney at Law, 4th National Bank Bldg., 20th Floor, Tulsa, Ok. 74119.

Geo. P. Striplin

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF
OKLAHOMA

BILL G. BROWN,

Plaintiff,

-vs-

WORTHEN BANK & TRUST COMPANY,
N.A., A National Banking
Association, and ROBERT L.
FIKES,

Defendants.

ORDER

NO. 81-C-135-B

FILED

JUN 16 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

NOW, on this 16th day of June, 1981, this matter coming
before the Court upon Stipulation of the parties, and the Court
having read and considered the same, finds that the case should
be transferred as per 28 U.S.C. §1404(a).

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that this
case should be and hereby is transferred to the United States
District Court for the Eastern District of Arkansas, Western
Division.

5/ THOMAS R. BRETT

CERTIFICATE OF DELIVERY

Geo. P. Striplin hereby certifies that on this _____ day of June, 1981, he personally delivered a true and correct copy of the above and foregoing instrument by handing a copy of same to Richard B. Noulles, Attorney at Law, 4th National Bank Bldg, 20th Floor, Tulsa, Ok. 74119.

Geo. P. Striplin

62

IN THE UNITED STATES DISTRICT COURT FOR
NORTHERN DISTRICT OF OKLAHOMA

JUN 16 1981 *hm*

ALLIED PRINTERS AND PUBLISHERS,
INC., AN OKLAHOMA CORPORATION,

Plaintiff,

v.

CO-OPERATIVE SHIPPERS, INC.,
AN ILLINOIS CORPORATION,

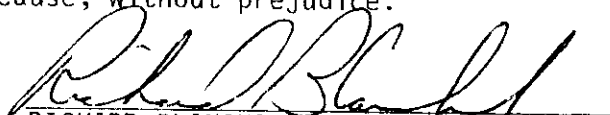
Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 81-C-88-B ✓

NOTICE OF DISMISSAL

COMES NOW, the Plaintiff, and pursuant to Rule 41 (a)(1), Federal Rules of Civil Procedure, Title 28 U.S.C., gives it's notice of dismissal of the above styled and numbered cause, without prejudice.



RICHARD BLANCHARD
Attorney for Plaintiff
901 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 583-2112

CERTIFICATE OF MAILING

I, Richard Blanchard, do hereby certify that on the 12th day
June, 1981, I mailed the foregoing Notice of Dismissal to:

Fred Rahal, Jr.
9 East 4th Street, Suite 305
Tulsa, Oklahoma 74103

Ronald H. Cobert
Suite 501
1730 M. Street, NW
Washington D.C. 20036

by placing a true and correct copy in the U.S. Mail with proper postage fully prepaid thereon.



RICHARD BLANCHARD

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

JUN 16 1981

ROBERTA LEA COWART,
Plaintiff,

vs.

FLOYD MACK TERRY,
Defendant.

NO. 80-C-122-E

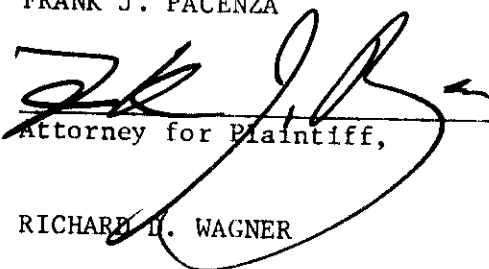
Jack C. Silver, Clerk
U. S. DISTRICT COURT

APPLICATION TO DISMISSAL WITH PREJUDICE

COME now the plaintiff and the defendant, each of them, and move the Court to dismiss the above entitled cause of action and Complaint with prejudice for the reason that all of the matters, causes of action and issues in the Complaint have been settled, compromised and released for the total sum of TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00).

WHEREFORE, premises considered the plaintiff and defendant and each of them do move the Court to order a dismissal with prejudice in the above captioned matter.

FRANK J. PACENZA


Attorney for Plaintiff,

RICHARD D. WAGNER

Attorney for Defendant.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JUN 15 1981

LOUIS DAVIDSON, JOHN J. LIVINGSTON,)
ALLEN R. RATTI, GRAEME R. T. SORLEY,)
and JOHN TUCKER,)

Plaintiffs,)

v.)

R. O. WHEELER, R. O. WHEELER, JR.,)
and WEBSTER-JACKSON CORPORATION,)

Defendants.)

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-435-E

ORDER OF DISMISSAL WITH PREJUDICE

Upon consideration of the Stipulation of Dismissal filed herein, it is hereby ordered that the above entitled action shall be, and it is hereby, dismissed with prejudice, each party to bear his own costs.

S/ JAMES O. ELLISON

Judge

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 15 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

STEPHEN K. MENDENHALL,)
)
Plaintiff,)
)
vs.)
)
THE PRUDENTIAL INSURANCE)
COMPANY OF AMERICA,)
)
Defendant.)

Case No. 79-C-648-E

ORDER OF DISMISSAL

ON this 15TH day of June, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff filed herein against the defendant be and the same hereby is dismissed with prejudice to any future action.

James Edelson
J U D G E

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
GEORGE L. COLE,)
)
Defendant.)

JUN 15 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 81-C-193-C

DEFAULT JUDGMENT

This matter comes on for consideration this 15th
day of June, 1981, the Plaintiff appearing by Paula S. Ogg,
Assistant United States Attorney for the Northern District of
Oklahoma, and the Defendant, George L. Cole, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, George L. Cole, was personally
served with Summons and Complaint on May 6, 1981, and that Defendant
has failed to answer herein and that default has been entered
by the Clerk of this Court.

The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to the
Complaint has expired, that the Defendant has not answered or
otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff is
entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, George L.
Cole, for the principal sum of \$1,470.00 (less the sum of \$100.00
which has been paid) plus the accrued interest of \$420.89 as
of April 29, 1980, plus interest at 7% from April 29, 1980,
until the date of Judgment, plus interest at the legal rate on
the principal sum of \$1,470.00 (less the sum of \$100.00) from
the date of Judgment until paid.

13/ H. Dale Cook
UNITED STATES DISTRICT JUDGE

UNITED STATES OF AMERICA
HUBERT H. BRYANT
United States Attorney

Paula S. Ogg
PAULA S. OGG
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 12 1981

RAYMOND J. DONOVAN, Secretary of
Labor, United States Department
of Labor,

Plaintiff,

v.

KEN'S PIZZA PARLORS, INC.,

Defendant.

Civil Action File
No. 79-C-127-~~AE~~

ORDER OF DISMISSAL

The defendant has stipulated that it will comply with the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201, et seq.), and have paid the \$11,000.00 sought by the plaintiff. The parties having entered into a stipulation that this action may be dismissed, it is

ORDERED, ADJUDGED and DECREED that the above styled and numbered cause be, and it hereby is, dismissed with costs to be taxed against defendant for which execution may issue.

Dated this 12 day of June, 1981.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Approved as to Form and Content:

Max A. Wernick
MAX A. WERNICK
Attorney for Plaintiff

Richard L. Barnes
RICHARD L. BARNES
Attorney for Defendant

SOL Case Nos. 07355 - 07359

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 12 1981 *hwm*

ROBERT E. COTNER,

Plaintiff,

vs.

THE TULSA TRIBUNE, et al.,

Defendants.

No. 81-C-255-E ✓

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has before it for consideration Plaintiff's application for leave to commence this action in forma pauperis, filed on June 8, 1981. Plaintiff has tendered his complaint for filing.

The Court, mindful of the requirements of Ragan v. Cox, 305 F.2d 58 (Tenth Cir. 1962), cert. denied, 375 U.S. 981, 84 S.Ct. 495 (1964), has examined the complaint, and concludes that allowing leave to file in forma pauperis would, under the circumstances, be a useless act, since immediate dismissal would be fully warranted, see, e.g., Bennett v. Passic, 545 F.2d 1260 (Tenth Cir. 1976); Redford v. Smith, 543 F.2d 726 (Tenth Cir. 1976); Harbolt v. Alldredge, 464 F.2d 1243 (Tenth Cir. 1972), cert. denied, 409 U.S. 1025, 93 S.Ct. 473 (1972).

The complaint tendered herein duplicates, almost verbatim, the complaint filed by this same Plaintiff in case no. 81-C-211-E, Robert E. Cotner v. The Tulsa Tribune, et al. The Court ordered that action dismissed on May 18, 1981, as frivolous, in that Plaintiff's allegations plainly showed no deprivation of any right, privilege, or immunity secured to him by the Federal Constitution or laws of the United States. Upon the Plaintiff's motion, the Court reconsidered its order of dismissal in that case, and again concluded that the case should be dismissed, in that the cause of action stated therein was a defamation action arising under state law, and not the Constitution or laws of the United States.

Upon an examination of the complaint tendered herein, the Court, therefore, concludes that Plaintiff's motion for leave to proceed in forma pauperis must be denied.

It is so Ordered this 12th day of June, 1981.

James O. Ellison
JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 12 1981 *fur*

Jack G. Silver, Clerk
U. S. DISTRICT COURT

AMFAC DISTRIBUTION CORPORATION,)
a California corporation,)
)
Plaintiff,)
)
vs.)
)
WILLIAM O. IOTT, an individual,)
)
Defendant.)

No. 80-C-510-E ✓

JUDGMENT

This cause having come on for hearing on the 13th day of May, 1981, upon Plaintiff's Motion for Default Judgment, and the Court, having heard the evidence presented therein, and having concluded that Defendant should be adjudged in default, and that Plaintiff should recover of Defendant, it is

ORDERED, ADJUDGED AND DECREED that judgment be entered in favor of Plaintiff, AMFAC Distribution Corporation, and against Defendant, William O. Iott, in the amount of \$216,398.15 in actual damages, together with costs and post-judgment interest at the rate of 12% per annum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff, AMFAC Distribution Corporation, have and recover as exemplary damages of the Defendant, William O. Iott, the amount of \$100,000.00.

Dated this 18TH day of June, 1981.

James O. Ellison

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LEAGUE OF WOMEN VOTERS OF
TULSA, INC., a non-profit
corporation; LEAGUE OF
WOMEN VOTERS OF OKLAHOMA,
INC., a non-profit
corporation; PATRICIA LANER,
SUDYE NEFF KIRKPATRICK, and
KATHY GROSHONG,

Plaintiffs,

vs.

THE UNITED STATES CORPS OF
ENGINEERS; LIEUTENANT
GENERAL JOHN W. MORRIS,
Commanding Officer, United
States Corps of Engineers,
Tulsa District; and
HONORABLE MARTIN HOFFMAN,
Secretary of the Army,

Defendants.

No. 77-C-54-C

F I L E D

JUN 12 1981

**Jack C. Silver, Clerk
U. S. DISTRICT COURT**

O R D E R

Now before the Court for its consideration is the motion of the defendants, pursuant to Rule 7(b)(1), F.R.C.P., for an order finding them to be in compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. §4432) and the applicable regulations, and dismissing this action. Also before the Court is the motion of the plaintiffs for an order and judgment finding that defendants' revised report fails to comply with NEPA and the environmental regulations of the Corps of Engineers (Corps); and that the defendants be ordered to perform an environmental impact statement.

The instant suit was filed by the plaintiffs on February 4, 1977 seeking a declaratory judgment decreeing that the Corps of Engineers must, prior to contracting with the City of Tulsa for water storage rights in the Oologah Reservoir, conduct an environmental impact study in compliance with NEPA, the guidelines of the Council on Environmental Quality (CEQ), and

defendants' own regulations. The plaintiffs also sought temporary injunctive relief pending such determination, permanent injunctive relief in the event that the Corps of Engineers fail to make the required studies, and a writ of mandamus to compel the Corps of Engineers to comply with NEPA.

The defendants admit that water storage is an authorized project purpose for Oologah Lake; that on December 4, 1956, the United States entered into Contract DA 34-066-CIVENG-57-330 as modified by Modification No. 1 with the City of Tulsa, Oklahoma, for water storage in Oologah Lake; that this contract provided for a follow-on contract with the City of Tulsa upon completion of the change from the initial stage of development of the project to the ultimate stage of development; and that they now propose to enter into a successor contract for all the remaining water storage space in Oologah Lake in compliance with the provisions of the original contract.

On May 5, 1977, plaintiffs' application for a preliminary injunction was denied. On November 1, 1977 the Motion of the plaintiffs for Summary Judgment was sustained. The Court found that the proposal of the Corps to contract with the City of Tulsa, Oklahoma is subject to the provisions NEPA and the Corps regulations governing compliance with NEPA. The Court further found that, based on representations of counsel for the defendants, that execution of the proposed contract was not imminent and consequently there was no need at that time to enjoin the Corps from entering into such contract. The Court then entered its order that the Corps must comply with NEPA and pertinent controlling regulations, and must determine if there are actual or potentially significant environmental impacts, resulting from entering into a contract for water storage space in Oologah Reservoir.

The Corps subsequently filed its report, entitled "Assessment of Incremental Impacts of Contracting for Water

Supply in Oologah Lake, Oklahoma between the City of Tulsa and the United States Corps of Engineers," and filed a motion to find compliance. On July 24, 1978, following a hearing on the motion, the Court found that the assessment of incremental environmental impact did not comply with NEPA, with pertinent controlling regulations, or with the previous order of this Court. The Court said that "It is not sufficient. It does not take into consideration too many elements that must be considered before the Court could find that it is satisfactory compliance with the Act." The Corps was granted 90 days to come into compliance with the National Environmental Policy Act. On February 15, 1979, the Corps advised the Court that a revised environmental impact assessment would be prepared and would be filed on March 15, 1979. On April 23, 1979, the Corps advised the Court that the Revised Assessment of a Water Supply Contract Between the City of Tulsa, Oklahoma and the United States Corps of Engineers (Revised Assessment) had been prepared and was in the process of being made available to the public. The Corps stated that after public comment had been received and further revisions made if necessary, the District Engineer would make his final determination as to whether a full environmental impact statement was required.

On April 30, 1979, plaintiffs filed an application for an order directing the defendants to specify the procedure for public and governmental participation, including circulation of the revised environmental assessment to federal agencies, as well as the Council on Environmental Quality (CEQ); circulation to the public, including public hearings; and circulation to state and local agencies, including Kansas officials and the Kansas-Oklahoma Interstate Compact Commission. The plaintiffs also requested that the Corps be required to reaffirm its commitment that no action be taken prior to completion of the above. The Corps responded by delineating the procedures it

would be using to inform the public about the existence of the revised assessment. On May 16, 1979, plaintiffs indicated that some of their concerns had been allayed by defendants' response of May 9, 1979. However, plaintiffs renewed their request regarding circulation of the report to federal agencies, to CEQ, to state and local agencies, and for public hearings wherein the critical issues under litigation herein would be raised for review.

On June 8, 1979 plaintiffs filed a motion for an order and judgment finding that defendants' revised report fails to comply and that defendants be ordered to perform an environmental impact statement. On June 21, 1979, the defendants filed a motion requesting that the Court find that, upon complying with the procedures outlined in defendants' request of May 9, 1979, the defendants have in complied with NEPA and the applicable regulations; and that the defendants be released from any constraints which would prohibit contracting for water storage in Oolagah Lake with the City of Tulsa, Oklahoma. On June 29, 1979, the plaintiffs renewed their request that an EIS be prepared which fully complies with the requirements of Section 102(2)(c) of NEPA and incorporates the analysis of alternatives mandated by Section 102(2)(E)

On August 13, 1980, the Court requested that the defendants prepare a Finding of No Significant Impact as required by Title 40, Chapter 2, §1501.4(c)&(e), prior to judicial review of compliance with NEPA. On September 2, 1980, in a Report to the Court, the defendants showed that they had, in accordance with the regulations in effect at that time, started the process of public notice and comment. A copy of the Revised Assessment was furnished to the Court with the report, the same assessment furnished to the Court in April, 1979. On September 15, 1980, the plaintiffs responded to the Report to the Court, asking that the content of the notice (news release) be determined to be

insufficient; that notice and publication as envisioned by 40 CFR 1506.6 (and 1501.4(e)(2)) be used to involve the public and interested parties; that the notification process specifically refer to the existence of this litigation, and to the fact that plaintiffs have raised issues concerning the impacts of the proposal; and that in addition to Oklahoma and federal agencies, the Kansas-Oklahoma Interstate Compact Commission and the Kansas water authority be advised. On November 18, 1980, defendants informed the Court that the Finding of No Significant Impact (FONSI) had been signed and notices of the availability of the FONSI were mailed to known interested parties. On November 18, 1980 defendants renewed their motion pursuant to Rule 7(b)(1), F.R.C.P., for an order finding defendants to be in compliance with the applicable regulations and dismissing this action.

At the time when the Revised Assessment was first submitted to the Court (April 23, 1979), the applicable NEPA regulations stated that the purpose of those regulations and of section 102(2)(c) of NEPA, was to require agencies "to build into their decision-making process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed action in order that adverse environmental effects may be avoided or minimized and environmental quality previously lost may be restored." §1500.1 (CFR, 1979). It was policy under these regulations that "agencies should consider the results of their environmental assessments along with their assessments of the net economic, technical and other benefits of proposed actions and should use all practicable means, consistent with other essential considerations of national policy, to restore environmental quality as well as to avoid or minimize undesirable consequences for the environment." (§1500.2). Section 1500.4 made it clear that Section 102(2)(C) of NEPA applies to all agencies of the Federal Government who must comply to the fullest extent possible unless existing law

expressly prohibits or makes compliance impossible. Types of agency actions covered by Section 102(2)(C) as elaborated in these guidelines (Title 40, §1500) include but are not limited to actions involving a Federal lease, permit, license certificate or other entitlement for use.

An environmental impact statement must be prepared, under the requirements of Section 102(2)(c) and these regulations if the action is federal, and is "major" or has a significant effect on the quality of the human environment. §1500.6(c). Section 1500.6, at the time of the first submission of the Revised Assessment, identified "major federal actions significantly affecting the quality of the human environment" in terms of "overall, cumulative impact." In addition, proposed major actions which are likely to be highly controversial, are, according to §1500.6(a), to be covered by an EIS in all cases. Section 1500.6(b) further defines "significant effects" as follows:

The Act also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment, and serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. Significant effects also include secondary effects, as described more fully, for example, in §1500.8(a)(iii)(B). The significance of a proposed action may also vary with the setting, with the result that an action that would have little impact in an urban area may be significant in a rural setting or vice versa. While a precise definition of environmental "significance," valid in all contexts, is not possible, effects to be considered in assessing significance include, but are not limited to, those outlined in Appendix II of these guidelines. (emphasis added).

Secondary effects, which may be "significant effects" for purposes of NEPA, are defined in Section 1500.8(a)(3)(ii) to include actions which affect infrastructure investments, or social and economic activities; which affect population growth

causing impacts on the resource base, including land use, water, and public services of the area in question.

In addition, §1500.2(a) requires that views of the public be considered in the NEPA process. Section 1500.3(c) requires that "Existing mechanisms for obtaining the views of the Federal, State, and local agencies should be utilized to the maximum extent practicable in dealing with environmental matters."

In addition to the NEPA regulations, the Corps of Engineers were operating, at the time of the first submission of the Revised Assessment, under regulations (Title 33, §209.410) which were designed to provide guidance for preparation and co-ordination of Environmental Statements as required by Section 102(2)(C) of NEPA. These regulations applied broadly to all elements of the Corps of Engineers with responsibilities for planning, design, construction, management, and regulation of civil works activities and were applicable to pre-authorization and post-authorization project activities. Title 33, §209.410(b).

In general, these regulations require full compliance with both the letter and the spirit of NEPA. This policy requires that, in operation and management of Corps projects, "all practical means and measures" shall be used "to enhance, preserve and protect the quality of the environment to the fullest extent possible." (Title 33, §209.410(d)(1)). To that end, these regulations require

(1) Early and continuing coordination with local, state, and Federal agencies and the interested public. (§209.410(d)(1)(i)).

(2) The development and utilization of all practicable means and measures, including the "no-action" alternative to preserve and enhance the environment, and to minimize unavoidable adverse effects through analyses of engineering, economic, social, and other considerations to insure balanced decision-making in the total public interest. (§209.410(d)(1)(ii)).

(3) The use of a systematic, interdisciplinary approach, weighing environmental effects with engineering, economic, social, and other considerations affecting the total public interest. (emphasis added).

To this end, the District Engineer is required to prepare environmental statements when controversy or other events require such a statement to be prepared. See §209.410(d)(2)(ii). These regulations further acknowledge that "NEPA requires an environmental statement in every recommendation or report on . . . other major Federal actions significantly affecting the quality of the human environment." §209.410(d)(3). In addition, specific actions requiring environmental statements are listed in §209.410(e). Subsection (6) of §209.410(e), dealing with operation, maintenance, and management activities of the Corps, of which the action herein is a type, allows the District Engineer to conclude, on the basis of an environmental assessment, that O&M projects are too insignificant to warrant preparation of an environmental statement. However, this subsection also states that "certain administrative actions regarding utilization of project resources such as leases, permits, easements, and licenses, may lead to significant effects on the environment and therefore would require separate consideration." Although the action under consideration may have been included in an overall project statement, nonetheless, "separate environmental statements would still be required for those specific actions that are determined by the District Engineer to significantly affect the quality of the environment or to significantly affect future land or resource use." §209.410(a)(6)(ii) (emphasis added). (See earlier discussion on "significant effects" under NEPA regulations.) Significant effects are defined in §§ 1500.6(b) and 1500.8(a)(3)(ii).

New regulations were published by the Corps of Engineers on August 25, 1980 (FR, Vol. 45, No. 166, 56761ff) which replace

Title 33, §209.410, and which state policy and procedures for implementing NEPA. (Title 33 §230) The FONSI (but not the Revised Assessment), submitted by the defendant herein, was prepared subsequent to the effective date of these new regulations. Section 230.5 of these new regulations states that it is the policy of the Corps to vigorously implement NEPA through systematic interdisciplinary studies of all alternatives and through early and continuing interchange of views with concerned agencies. Among the implicit environmental goals of this policy statement is the conservation and wise use of material resources for the benefit of present and future generations. §230.5(h)(2).

Types of actions normally requiring an EIS include Operation and Maintenance activities (§230.6(d)), unless such activities are infrequent or minor (§230.7(c)). In addition, Appendix C of §230 states that in regard to completed projects in an operation and maintenance category, "A separate O&M EIS should be prepared where the activity is unique or where substantial controversy presently exists or can reasonably be expected to exist."

The requirements for an Environmental Assessment (EA) are stated in §230.9:

An EA is a brief document which provides sufficient information on potential environmental effects of the proposed action and its alternatives, to the district engineer to determine if an EIS is required and to assist the district engineer in complying with NEPA whether or not an EIS is necessary. (emphasis added).

The format of an EA should include a discussion of the need, impacts, and alternatives to the proposed action as well as a list of the agencies, interested groups and the public consulted. §230.9(c). The implication is, of course, that consultation shall have occurred with these groups. Section 230.9(c) also requires that the "EA must show compliance with appropriate environmental quality protection statutes and other environmental review requirements as discussed in §230.25."

The FONSI should reflect, among other things, "pertinent data obtained from cooperating Federal agencies having jurisdiction by law and/or special expertise and the interested public." §230.10 In addition, the EA and FONSI must show compliance with pertinent federal statutes, including NEPA. (§230.25)

Appendix B(8) states the EA must address all the alternatives, as discussed in paragraph 11b(5) of this appendix, unless (1) the EA finds no significant impact, (2) there are no "unresolved conflicts concerning alternative uses of available resource . . ." (Section 102(2)(E) of NEPA), and (3) the proposed action is a water dependent activity. Since the action herein confirms the existence of unresolved conflicts over alternative uses of Oolagah water, it is reasonable to conclude that under this section, the "Alternative" section, ¶11(b)(5)(b), must be followed in the EA/FONSI document. All practicable alternatives must be considered, including those (1) within the capability of the applicant and within the jurisdiction of the Corps of Engineers; (2) within the capability of the applicant but outside the jurisdiction of the Corps of Engineers; (3) reasonably foreseeable, beyond the capability of the applicant but within the jurisdiction of the Corps of Engineers; (4) reasonably foreseeable, although beyond both the capability of the applicant and outside the jurisdiction of the Corps of Engineers. In addition, this discussion must include "suggested means by which the environment might be protected and by which adverse impacts could be reduced by conditioning of the permit." (Appendix B(8)(a)). While it is obvious that the environmental assessment must comply with all NEPA requirements, Appendix 8(b) specifically states that the EA shall be based on considerations discussed in 40 CFR §§ 1501, 1506 & 1508.

On July 30, 1979, 40 CFR §1500 was revised. Section 1501 emphasizes application of NEPA early in the planning process. Of

particular relevance to the action herein is §1501.2(b) which requires identification of environmental effects and values in adequate detail so that they can be compared to economic and technical analyses. Section 1501.2(c) requires agencies to "Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act." (emphasis added).

Section 1501.4 states that in determining whether to prepare an environmental impact statement, the Federal agency shall decide, under its own supplementary regulations, whether the proposal is one which normally requires an environmental impact statement. The supplementary regulations of the Corps of Engineers discussed above, (§230.6(d)), include operations and maintenance activities such as the proposed action in dispute herein, as a type of action normally requiring an EIS. In addition, since the Corps of Engineers made a finding of no significant impact, the Corps is required, under §1501.4(e)(1), to follow the public participation requirements of §1506.6.

Section 1506.6 requires Federal agencies to engage in a wide range of efforts to involve the public in the decision-making process. Agencies are required to "make diligent efforts to involve the public in preparing and implementing their NEPA procedures" §1506.6(a); to provide notice to a wide range of private and public groups and individuals of NEPA-related meetings and hearings, and to hold such meetings and hearings, particularly when, as in the action herein, substantial environmental controversy exists. §1506.6(b)&(c). In addition, agencies are required to "solicit appropriate information from the public." §1506.6(d)

Section 1508 of Title 40 defines key terms which are relevant to a determination as to the necessity of preparing an

EIS. A "Major federal action is defined in §1508.18 in pertinent part as follows:

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§1508.27) . . .

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies;

(b) Federal actions tend to fall within one of the following categories:

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

"Significantly" is defined in §1508.27, in pertinent part, as follows:

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) CONTEXT. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected interests, and the locality. Significance varies with the setting of the proposed action. . . .

(b) INTENSITY. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to

anticipate a cumulatively significant impact on the environment. . . .

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

"Cumulative impacts" are defined in §1508.7 as follows:

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

"Effects" include both direct and indirect effects, according to §1508.8.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

The "human environment" affected is to be "interpreted broadly to include the natural and physical environment and the relationship of people with that environment." §1508.14 .

Thus, based on the definitions in §1508 of the current NEPA regulations, a major federal action significantly affecting the human environment includes actions which may be, in part, outside the exclusive control of the federal agency. Such effects may be beneficial or adverse, short-term or long-term, and may involve

the cumulative decisions or problems outside the scope of the action immediately proposed.

The Tenth Circuit has consistently emphasized that the requirements of NEPA (42 U.S.C. §4332) are mandatory in nature and that these mandates apply to procedure and do not undertake to control decision making within the departments. Environmental Defense Fund, et al. v. Andrus, 619 F.2d 1368 (10th Cir. 1980); Jette v. Bergland, 579 F.2d 59 (10th Cir. 1978); Wyoming Outdoor Coordinating Council v. Butz, 484 F.2d 1244 (10th Cir. 1973); National Helium Corporation v. Morton, 455 F.2d 650 (10th Cir. 1971).

The declared purpose of NEPA (42 U.S.C. §4321) is:

To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

In order to carry out this policy, it is the continuing responsibility of the Federal Government to coordinate plans and resources so that the nation may:

(1) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) Assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(42 U.S.C. §4331(b)).

In addition, Title 42 U.S.C. §4332 requires that all federal government agencies shall:

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Thus, at the heart of NEPA is Section 102(2)(C) and its mandate that, under specified circumstances, federal agencies must prepare an Environmental Impact Statement.

The proper standard of review of a final determination of a Federal agency under NEPA is whether the negative determination in this instance was "reasonable in the light of the high standards set by the statute so as to be 'in accordance with the law'" (Wyoming Outdoor Coordinating Council v. Butz, supra, 1249. The Court in Wyoming Outdoor Council, supra, stressed that the determination of the Court must be essentially a legal one, an application of the statutory requirements of NEPA to the facts of the issue.

Based on the foregoing statutes and regulations, the first question is whether the action at issue herein is a major federal action. The defendants argue that it is not. It is the defendants' position that the allocation of water lies absolutely with the States, and that the Federal Government merely participates by providing storage space. Therefore, the

defendants argue that any study of the contract for storage space in Lake Oolagah is an exercise in futility since the Corps has no power to effect any alternative allocation of water supply.

The extent of government involvement in or responsibility for an action which is sufficient to qualify as a "major federal action" has been addressed in Davis v. Morton, 469 F.2d 593, 595 (10th Cir. 1972) where the Court found that approving leases on federal lands constitutes a major federal action. Further the Court held that unless other statutes were clearly mutually exclusive with NEPA mandates, the specific requirements of NEPA remain in effect. Davis v. Morton, supra, 598. The lack of regulatory authority on the part of the federal agency to implement various alternatives is irrelevant to the NEPA mandates. In National Resources Defense Council, Inc. v. Morton, 458 F.2d 827 (D.C.Cir. 1972), the court recognized that an agency is not limited to consideration of alternatives it could accomplish as a Federal agency. Rather, "the imperative directive is a thorough consideration of all appropriate methods of accomplishing the aim of the action, including those without the area of the agency's expertise and regulatory control as well as those within it." See also Trinity Episcopal School Corporation v. Romney, 523 F.2d 88 (2nd Cir. 1975); and Environmental Defense Fund, Inc. v. Corps of Engineers, 492 F.2d 1123, 1135 (5th Cir. 1974); City of Davis v. Coleman, 521 F.2d 661, 673, footnote 15 (9th Cir. 1975).

Thus, prior judicial decisions, the requirements of NEPA, and the regulations of the Corps of Engineers, whether those regulations in effect prior to or subsequent to submission of the FONSI, all lead the Court to conclude that the action herein cannot escape designation as "a federal action." As noted above, types of agency actions covered by NEPA and Corps regulations include Federal leases, permits, license certificates or other entitlements for use. Section 1500 as revised on July 19, 1979

retains this requirement, and includes, as noted above, "all new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies." The Corps regulations in effect prior to August 25, 1980 stated unequivocally that NEPA applied to all management "regulations of all civil works projects, particularly when such activities significantly affect future land or resource use. Title 33, §209.410(b) and §209.410(a)(6)(ii). The revised version of these regulations, effective August 25, 1980, prior to the submission of the FONSI, continues to include O&M activities as types of actions normally requiring an environmental impact statement.

Thus, since the proposed contract herein is a federal action as defined under NEPA, what remains to be determined is whether the Corps of Engineers was reasonable in its determination that the contract is not "major" and that it does not "significantly affect the environment." Wyoming Outdoor Co-ordinating Council v. Butz, supra, 1249. In general, courts have not considered the term "major" as a separate requirement from the phrase "significantly affecting the quality of the human environment." Frederick R. Anderson, NEPA in the Courts, (Baltimore; Johns Hopkins University Press; 1973), pp.89ff. Citizens for Responsible Area Growth (CRAG) v. Adams, 477 F.Supp. 994 (D.C.N.H 1979). (See also §1508.27 as revised on July 29, 1979.) In general, courts have held that an environmental impact statement must be prepared if a project may cause significant degradation of some human environmental factor. City of Davis v. Coleman, supra, 673. "Significant effects" as defined by in Section 1500.6(b) (prior to July 30, 1979) cover a broad range of effects, both beneficial and adverse. Primary effects, relevant to the action herein, include actions which curtail the range of beneficial uses of the environment, and which serve short-term, to the disadvantage of long-term, environmental goals. Effects

on rural areas must be considered in addition to urban areas. Significant secondary effects include impacts on land use, water supply, and public services of the area in question. The revised §1500, defines "significant" both in terms of social context and intensity of effects, as noted above.

In general, both the prior and current requirements of §1500 mandate that a federal agency, in determining the necessity of preparing an EIS, must identify all areas of potential environmental concern, particularly those involving controversial effects, and must take a hard look at all potential environmental impacts so identified, including secondary impacts. McDowell v. Schlessinger, 404 F.Supp. 221, 250 (W.D.Mo. 1975). The McDowell case, arising in the Eighth Circuit, which has adopted the same standard of review as the Tenth Circuit, defines a full and careful analysis, based on facts:

Sufficient investigation must be done and sufficient data gathered to allow the agency to consider realistically and in an informed manner the full range of potential effects of the proposed action. In making a negative determination as to the applicability of §102(2)(C) to a particular project, the agency must avoid making "bald conclusions" as to the magnitude or variety of potential effects of the proposed action. Similarly, the agency is not permitted to base a negative decision as to the applicability of §102(2)(C) upon superficial reasoning or perfunctory analysis. Rather for an agency's threshold decision that §102(2)(C) does not apply to a particular proposed action to be upheld in review, it must affirmatively appear from the administrative record, and from the written assessment where one is prepared, that the agency has given thoughtful and reasoned consideration to all of the potential effects of the proposed action, and that a convincing case has been made that the proposed impacts are insignificant after a careful balancing of the relevant factors. (emphasis added)

In any event, the agency must consider
"(1) the extent to which the action will cause adverse environmental effects in excess of those created by existing uses in the area affected by it, and (2) the absolute quantitative adverse environmental effects of the action itself, including the cumulative harm that results from its contribution to

existing adverse conditions or uses in the affected area."

McDowell v. Schlesinger, supra, 250. In Kelley v. Butz, 404 F.Supp. 925 (W.D.Mich. 1975), the Court criticized a negative determination for its failure to adequately analyze the alternatives to the proposed action.

First of all, the analysis neglects to deal directly with objections to the project and their resolutions, if any. More importantly, however, the statement undertakes no direct consideration of either the alternatives to this project or of "how the alternative selected . . . will avoid any major public objections or significant impacts, thereby making an impact statement unnecessary." (citations omitted).

The opinion further criticizes the FONSI for dealing with alternatives in highly generalized terms, thus failing to carry out the active search required by NEPA. Similarly, in City of Davis v. Coleman, supra, which employed the same standard of review as the Tenth Circuit, the court held that the threshold test for "major federal actions significantly affecting the quality of the human environment" is met when a plaintiff "alleges facts which, if true, show that the proposed project would materially degrade any aspect of environmental quality." Under this test, courts do not determine whether a challenged project will have, in fact, significant effects, but rather determine whether an agency reasonably concluded that the project will have no significant adverse consequences. Thus, the court concluded that "where substantial questions are raised as to whether a project will have significant adverse impacts, it is hardly reasonable for an agency to conclude, prior to study, that an EIS must be prepared whenever a project 'may cause a significant degradation of some human environmental factor.'" (emphasis added). Save Our Ten Acres v. Kreger, 472 F.2d, 463, 467 (5th Cir. 1973).

As noted above, the Court ruled on November 1, 1977, that the Corps of Engineers must comply with NEPA and pertinent

controlling regulations, and must determine if there are actual or potentially significant environmental impacts resulting from the proposed contract for water storage in the Oolagah Reservoir. On July 7, 1978, the Court found that the assessment of incremental environmental impacts did not comply with NEPA and the Court allowed the defendants further time to come into compliance. The Revised Assessment and the FONSI are now before the Court. It is clear from a comparison of the text of the original Assessment, dated February, 1978, with the Revised Assessment, dated March, 1979, that the Revised Assessment is little changed from the original and does not overcome the earlier defects.

The plaintiffs have alleged that the Corps has failed to discuss the impact of the proposed contract on water quality; on underground water supply; on regional water supply, particularly during severe drought; on alternative authorized uses of Oolagah water, such as navigation, flood control, water quality, or potential hydroelectric use. Further, the plaintiffs note that there is no discussion in the Revised Assessment of potential Indian rights to the water, of the impact of the Kansas-Oklahoma Interstate Compact, or of potential needs of Public Service Company of Oklahoma for a substantial amount of water. Plaintiffs also allege that the Corps has ignored the finding of its own Tulsa Urban Study which predicts a tripling of water demand in the study area by the year 2030. The plaintiffs also object to the lack of alternatives discussed in the Revised Assessment, noting that only two are superficially analyzed, the proposed action or no action. The plaintiffs have offered, in their response of June 8, 1979, a list of thirteen good-faith alternatives to be investigated. It is the contention of the plaintiffs that the refusal of the Corps to explore alternatives forecloses future options for dealing with potential water storage and supply problems. In summary, the plaintiffs allege

that the Corps has made no systematic interdisciplinary studies of potential environmental impacts in the Northeast Oklahoma region, no assessment of viable alternatives, and no consultation or coordination with federal, state, and local agencies, or with the public, as required by NEPA for an environmental assessment.

If the plaintiffs meet the initial burden of alleging facts, which if true, would constitute a substantial impact upon the environment, then the burden shifts to the agency to prove that it took a hard look at all relevant environmental questions and has convincingly demonstrated that the impact of the action is insignificant. Hiatt Grain & Feed, Inc. v. Berglund, 446 F.Supp. 457, 490 (D.C. Kansas, 1978).

It is the finding of this Court that the FONSI was not based on sufficient information, careful analysis, and a "hard look" at potential environmental effects, both primary and secondary, as is mandated by NEPA and the complementary regulations of the Corps of Engineers. An examination of the Revised Assessment shows highly generalized conclusions apparently based on conjecture, indicating the kind of perfunctory analysis rejected by the court in McDowell v. Schlessinger, supra, and in Kelley v. Butz, supra. The defendants have admitted that in preparing the original environmental assessment that no analysis was made of the following impacts of the proposed contract:

- economic impacts on the City of Tulsa or on the economics of the Northeast Oklahoma region
- the influence on population distribution in the region
- the influence on other depletable resources
- the impact on water quality in the Verdigris River
- the impact on ground water levels and quality
- the implications for the Black Fox Nuclear Plant at Inola, Oklahoma
- the effect on employment trends

- the effect on regional water supply during severe drought

In addition, the Corps of Engineers admits that no study was made of the following:

- trends in regional water use since the completion of the reservoir
- any secondary impacts
- the value of the water in connection with the price to be charged under the proposed contract
- potential re-use of the water or other conservation practices
- potential conflict between the authorized uses of the water in the reservoir (navigation, flood control, and water quality releases)
- industrial needs, present and future
- alternate contracts for water storage

The Corps of Engineers also admits that no use was made of the Oklahoma Comprehensive Water Plan or the Water Supply portion of the Tulsa Urban Study in preparation of the original assessment. See Deposition of Col. Anthony A. Smith, District Engineer for the Tulsa District, Corps of Engineers, April 14, 1977, pp.34-38, 45-48, 50-52, 54-62, 64, 67, 69, 70. The testimony of project officers confirms the fact that the Corps has not made any determinations, studies, or evaluation as to alternative uses or users of the water. See Deposition of Lonnie Hartung, April 19, 1977, pp.48-49. In addition, the testimony of Dr. John Carroll, Chief of the environmental analysis section of the Tulsa Branch, Corps of Engineers, confirms the allegations of the plaintiffs that the Corps did not consult with other agencies, federal, state, or local, in preparing the Environmental Assessment, as required under NEPA. See Deposition, April 19, 1977, pp.47,50. Further, there is no indication in the Revised Assessment that these deficiencies have been remedied.

The Corps cannot defend its failure to consider these potential effects with the argument that the proposed contract is


for water storage, not water supply, and therefore that no water supply implications need to be investigated. It is undisputed in the testimony before the Court that without the reservoir storage, the water would not be available to the City of Tulsa. The relationship between water storage commitment and regional water supply is the very type of problem which NEPA was designed to address, to the end that the public and policy makers may cooperate and learn, prior to ultimate decision-making, of potential problems and alternate solutions, particularly when renewable or depletable resources are involved. 42 U.S.C. §§4331, 4332.

Thus this Court must conclude that the Corps of Engineers has not reasonably determined that the proposed contract has no actual or potentially significant adverse impacts. The plaintiffs herein have raised substantial environmental questions which the Corps of Engineers has consistently refused to address, even when given the opportunity to revise the assessment. Failure to consult with the public and with other Federal state and local agencies; failure to study, develop, and describe meaningful alternatives in the assessment process (see Trinity Episcopal School Corporation v. Romney, supra, 93); and failure to study primary and secondary environmental effects all violate the clear mandates of NEPA and the associated regulations of the Corps of Engineers. As the Tenth Circuit stated in National Helium v. Morton, supra, 656, whether the proposed action has significant long-range consequences, or whether the environmental effects are insignificant in view of countervailing governmental interest, is an agency decision. The important thing is that any and all environmental consequences must be considered.

Therefore, it is the determination of the Court that the proposed contract between the City of Tulsa and the Corps of Engineers is a major Federal action significantly affecting the

quality of the human environment, and consequently, that an environmental impact statement must be prepared.

It is so Ordered this 12th day of June, 1981.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HEARTLAND ENTERPRISES, INC.,)
)
 Plaintiff,)
)
 v.)
)
 LINCLAY CORPORATION and GENERAL)
 AMERICAN LIFE INSURANCE COMPANY,)
)
 Defendants.)

No. 81-C-124-~~BC~~

~~FILED~~
JUN 11 1981

ORDER OF DISMISSAL

John L. Cook, Jr.
U. S. DISTRICT COURT

Now on this 11th day of June, 1981, the parties
having filed their Stipulation for Dismissal, the Court finds
that this action should be dismissed with prejudice.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that
this cause of action is hereby dismissed with prejudice.

B. H. Dale Cook

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

FLOYD FITZSIMMONS, GLORIA A.
FITZSIMMONS, ROBERT ELLIOTT
FITZSIMMONS, and THE FEDERAL
LAND BANK OF WICHITA, KANSAS,
a Corporation,

Defendants,

vs.

FIRST NATIONAL BANK OF COFFEY-
VILLE, COFFEYVILLE, KANSAS, a
National Banking Association,
and UNITED STATES DEPARTMENT OF
AGRICULTURE d/b/a FARM HOME
ADMINISTRATION (FMHA),

Third Party Defendants.

CIVIL ACTION NO. 78-C-477-C

FILED

JUN 11 1981

Jack G. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

NOW, on this 11th day of June, 1981, this
matter came on for consideration, the parties having agreed
to the Court entering judgment as hereinafter set forth:

The Court finds that the Second Amended Complaint
filed herein contains the pertinent averments of the First
Amended Complaint and the Complaint and that, therefore, the
Second Amended Complaint is sufficient to establish the claims
of the Plaintiff. Accordingly, the Court finds that the Complaint
and First Amended Complaint should be dismissed.

The Court finds that judgment should be granted in
favor of the Plaintiff on Count I of the Second Amended Complaint
and against the Defendant, Floyd Fitzsimmons, in the sum of
\$113,553.76 plus interest on such sum at the rate of 13 percent
per annum from the following dates and in the following amounts:
from November 8, 1976, in the amount of \$17,765.87; from
November 15, 1976, in the amount of \$2,071.44; from November 15,
1976, in the amount of \$7,342.06; from July 19, 1977, in the

amount of \$31,115.25; from July 19, 1977, in the amount of \$11,805.75; from July 19, 1977, in the amount of \$8,286.75; from July 19, 1977, in the amount of \$11,805.75; from July 19, 1977, in the amount of \$8,397.00; from July 19, 1977, in the amount of \$11,731.50; from August 1, 1977, in the amount of \$3,232.39.

The Court finds, as to Count II of the Second Amended Complaint, that the sums due and owing Plaintiff by Floyd Fitzsimmons as pled in this count have been heretofore paid. Accordingly, the Court finds this count should be dismissed.

The Court finds, as to Count III of the Second Amended Complaint, that judgment should be granted in favor of the Plaintiff and against the Defendant, Floyd Fitzsimmons, in the sum of \$234,099.36 with interest according to law from March 15, 1978.

The Court finds, as to Count IV of the Second Amended Complaint, that the real estate transactions which involved the properties upon which mortgages were held by Plaintiff and its agencies were good faith transactions for a valuable consideration. Accordingly, the Court finds that Count IV should be dismissed.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiff have judgment against the Defendant, Floyd Fitzsimmons, on Count I of the Second Amended Complaint, in the total sum of \$113,553.76, with interest on various amounts therein from various dates, all as set out above in the Court's findings.

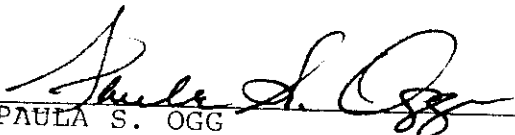
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Counts II and IV of the Second Amended Complaint be and the same are hereby dismissed.

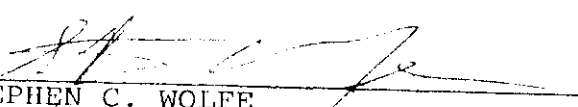
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, on Count III of the Second Amended Complaint, Plaintiff be and it is hereby granted judgment against the Defendant, Floyd Fitzsimmons, in the amount of \$234,099.36 with interest according to law from March 15, 1978, until paid, and for the costs of this action accrued and accruing.

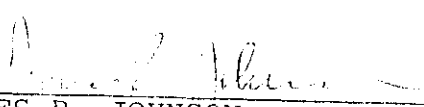

UNITED STATES DISTRICT JUDGE

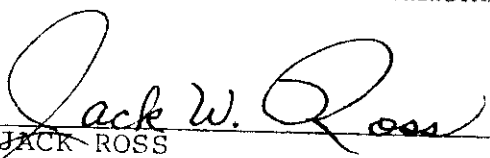
APPROVED:

HUBERT H. BRYANT
United States Attorney


PAULA S. OGG
Assistant United States Attorney


STEPHEN C. WOLFE
Attorney for Defendants and
Third Party Plaintiffs, Floyd
Fitzsimmons and Gloria Fitzsimmons


JAMES R. JOHNSON
Attorney for Defendant,
Robert Elliott Fitzsimmons


JACK ROSS
Attorney for Defendant, Federal
Land Bank of Wichita, Kansas

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AMARCO, LTD., an Oklahoma
corporation,

Plaintiff,

v.

GEORGIA PACIFIC INTERNATIONAL,
INC., a foreign corporation,

Defendant.

No. 76-C-24-B

FILED

JUN 10 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

STIPULATION ~~OF~~ DISMISSAL WITH PREJUDICE

It is hereby stipulated by and between the parties
hereto as follows:

1. All claims presented in the captioned matter by
Amarco, Ltd., and all counter claims presented by defendant
Georgia Pacific International, Inc., be and the same are hereby
dismissed with prejudice by all parties pursuant to Rule 41(a)
of the Federal Rules of Civil Procedure.

2. Each party hereto shall bear its own costs.

DATED this 20 day of MAY, 1981.

AMARCO, LTD.

By: H.H. Whited

Carl Hughes
CARL HUGHES, ATTORNEY FOR
AMARCO, LTD.

GEORGIA-PACIFIC INTERNATIONAL, INC.

By: Phillip M. Armstrong

Phillip M. Armstrong, Assistant Secretary

Val R. Miller
VAL R. MILLER, ATTORNEY FOR
GEORGIA-PACIFIC INTERNATIONAL, INC.

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA
JUN 10 1981

RAY E. FRIEDMAN &
COMPANY,

Plaintiff,

vs.

RAYMOND BUTCHER,

Defendant.

WILLIAM P. SMITH, CLERK
U. S. DISTRICT COURT

Case No. 80-C-39-BT

NOTICE
STIPULATION OF DISMISSAL

COMES NOW the Plaintiff by its attorneys, Ungerman,
Conner, Little, Ungerman & Goodman, and ~~stipulates that this matter~~
~~may be dismissed for the reason that the Defendant has filed~~
~~bankruptcy, Plaintiff's debt is listed, and Defendant has received~~
~~his discharge in bankruptcy.~~
dismisses this cause.

UNGERMAN, CONNER, LITTLE, UNGERMAN & GOODMAN

By

ALL
Attorney for Plaintiff

CERTIFICATE OF MAILING

I, ALLEN KLEIN, one of the attorneys for the Plaintiff
herein, do certify that on the 9 day of June, 1981, I mailed a
true and correct copy of the within and foregoing Stipulation of
Dismissal to Fred W. Woodson, FRED W. WOODSON & ASSOCIATES, INC.,
6117-A East 21st Street, Tulsa, Oklahoma 74114 with sufficient
postage fully prepaid thereon.

ALL
ALLEN KLEIN

LAW OFFICES

UNGERMAN,
CONNER,
LITTLE,
UNGERMAN &
GOODMAN

MIDWAY BLDG.
2727 EAST 21 ST.
SUITE 400

P. O. BOX 2099
TULSA, OKLAHOMA
74101

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CLIFFORD D. OTTO and)
GAYLE OTTO, husband and wife,)
)
Plaintiffs,)
)
vs.)
)
DOBBS HOUSE, INC.,)
a corporation,)
and AMERICAN AIRLINES, INC.,)
a corporation,)
)
Defendants.)

FILED

NO. 80-C-38-E

JUN 10 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

Now, on this 10th day of June, 1981, the above styled
and numbered cause of action coming on for hearing before the
undersigned Judge upon a Stipulation of Settlement and Motion
to Dismiss With Prejudice of both the plaintiffs and defendants
herein, the Court finds that this cause should be dismissed
with prejudice.

IT IS THEREFORE ORDERED BY THE COURT that the above-styled
cause is dismissed with prejudice to the filing of any future
action herein.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE
JAMES O. ELLISON

APPROVED AS TO FORM:

[Signature]
Attorney for Plaintiffs

[Signature]
Attorney for Defendants

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 10 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

FRANK E. GOINES and)
EDDIE GOINES,)
)
Plaintiffs,)
)
vs.)
)
BOB R. BROOKS,)
)
Defendant.)

No. 80-C-442-E ✓

ORDER OF DISMISSAL WITHOUT PREJUDICE

Upon Motion of the parties hereto, this case is hereby
dismissed without prejudice.

Done this 10TH day of June, 1981.


JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 10 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL C. LUDWIGS, REBECCA A.
LUDWIGS, OKLAHOMA OSTEOPATHIC
FOUNDERS ASSOCIATION, INC. d/b/a
OKLAHOMA OSTEOPATHIC HOSPITAL,
WILTON W. WORKS, Attorney-at-Law,
and HARRY A. LENTZ, JR.,
Attorney-at-Law,

Defendants.

CIVIL ACTION NO. 80-C-632-E

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this _____
day of June, 1981, the Plaintiff appearing by Kenneth P. Snoke,
Assistant United States Attorney for the Northern District of
Oklahoma; the Defendants, Oklahoma Osteopathic Founders Association,
Inc. d/b/a Oklahoma Osteopathic Hospital, Wilton W. Works,
Attorney-at-Law, and Harry A. Lentz, Jr., Attorney-at-Law,
appearing by their attorney, Fred A. Pottorf; and Defendants,
Michael C. Ludwigs and Rebecca A. Ludwigs, appearing not.

The Court being fully advised and having examined the
file herein finds that Defendants, Oklahoma Osteopathic Founders
Association, Inc. d/b/a Oklahoma Osteopathic Hospital, Wilton W.
Works, Attorney-at-Law, and Harry A. Lentz, Jr., Attorney-at-Law,
were served with Summons and Complaint on November 10, 1980, as
appears on the U.S. Marshal's Service herein; and, that Defendants,
Michael C. Ludwigs and Rebecca A. Ludwigs, were served by publication
as shown on the Proof of Publication filed herein.

It appearing that the Defendants, Oklahoma Osteopathic
Founders Association, Inc. d/b/a Oklahoma Osteopathic Hospital,
Wilton W. Works, Attorney-at-Law, and Harry A. Lentz, Jr.,
Attorney-at-Law, have filed their Answer herein on November 13,
1980; and, that Defendants, Michael C. Ludwigs and Rebecca A.

Ludwigs, have failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and foreclosure on a real property mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fifteen (15), Block Four (4), APPALOOSA ACRES THIRD, an Addition to the Town of Glenpool, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Michael C. Ludwigs and Rebecca A. Ludwigs, did, on the 10th day of May, 1979, execute and deliver to the United States of America acting through the Farmers Home Administration, their mortgage and mortgage note in the sum of \$30,000.00 with 8 3/4 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Michael C. Ludwigs and Rebecca A. Ludwigs, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$30,576.73 plus accrued interest of \$1,734.51 as of March 13, 1981, plus interest from and after said date at the rate of 8 3/4 percent per annum until paid, plus the cost of this action accrued and accruing.

The Court further finds that Defendants, Oklahoma Osteopathic Founders Association, Inc. d/b/a Oklahoma Osteopathic Hospital, Wilton W. Works, Attorney-at-Law, and Harry A. Lentz, Jr., Attorney-at-Law, are entitled to judgment against Michael C. Ludwigs and Rebecca A. Ludwigs in the amount set out in their Answer, but that such judgment would be subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendants, Michael C. Ludwigs and Rebecca A. Ludwigs, in rem, for the principal sum of \$30,576.73 plus accrued interest of \$1,734.51 as of March 13, 1981, plus interest from and after said date at the rate of 8 3/4 percent per annum until paid plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants, Oklahoma Osteopathic Founders Association, Inc. d/b/a Oklahoma Osteopathic Hospital, Wilton W. Works, Attorney-at-Law, and Harry A. Lentz, Jr., Attorney-at-Law, have and recover judgment, in rem, against Defendants, Michael C. Ludwigs and Rebecca A. Ludwigs, in the amount set out in their Answer, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the Complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


S/ JAMES O. ELLISON


UNITED STATES DISTRICT JUDGE

APPROVED

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney


KENNETH P. SNOKE
Assistant United States Attorney


FRED A. POTTORF
Attorney for Defendants,
Oklahoma Osteopathic Founders
Association, Inc. d/b/a Oklahoma
Osteopathic Hospital,
Wilton W. Works, Attorney-at-Law,
and Harry A. Lentz, Jr.,
Attorney-at-Law

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 10 1981

LOIS L. HARGIS,

Plaintiff,

vs.

PATRICIA ROBERTS HARRIS,
Secretary of Health and Human
Services,

Defendant.

No. 80-C-241-E

CLERK OF COURT

JUDGMENT

This cause having been considered by the Court on the pleadings, the entire record certified to this Court by the Defendant Secretary of Health and Human Services (Secretary), and after due proceedings had, and upon examination of the pleadings and record filed herein, including the Briefs submitted by the parties, the Court is of the opinion as shown by its Memorandum Opinion filed herein of even date that the final decision of the Secretary is supported by substantial evidence as required by the Social Security Act, and should be affirmed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the final decision of the Secretary should be and hereby is affirmed.

Dated this 10th day of June, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

FINLEIGH CLOTHES, DIVISION
OF J. J. JUDGE, INC., a
corporation,

Plaintiff,

vs.

STEPHEN HAGGARD, INC., a
suspended corporation;
STEPHEN J. HAGGARD; JAMES
B. MILLS; and DAVID K.
HAGGARD;

Defendants.

Case No. 80-C-221-C

FILED

JUN 10 1981

J U D G M E N T

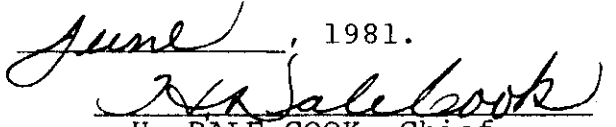
Jack C. Salebrook, Jr.
U. S. DISTRICT COURT

This cause came on to be heard this 12th day of March, 1981, for pretrial hearing, the Plaintiff being present by its attorney, Allen Klein, the Defendants, Stephen Haggard, Inc. and Stephen J. Haggard being present by their attorney, R. Kent Zirkle, and Defendant James B. Mills appearing not; on oral motion by Plaintiff's attorney, the court agreed to reconsider it's order sustaining Defendants' Motions for Summary Judgment, entered March 10, 1981; after oral argument by all parties the court sustained Defendant James B. Mills' and Defendant Stephen J. Haggard's Motions for Summary Judgment; after further argument, attorney for Defendant Stephen Haggard, Inc. agreed to judgment to be entered against Defendant Stephen Haggard, Inc. and in favor of the Plaintiff as prayed for in Plaintiff's petition.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that on reconsideration of Defendants James B. Mills' and Stephen J. Haggard's Motions for Summary Judgment, said motions be sustained and judgment entered in favor of Defendants James B. Mills and Stephen J. Haggard and against the Plaintiff, that the action be dismissed against the Defendants James B. Mills and Stephen J. Haggard.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Plaintiff recover of the Defendant Stephen Haggard, Inc. the sum of \$11,350.25, with interest thereon at the rate of 12% per annum from the date of judgment.

Date the 10 day of June, 1981.


H. DALE COOK, Chief
Judge, U.S. District
Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 10 1981

UNITED STATES OF AMERICA,
Plaintiff,

vs.

ROBERT A. McCULLEY, WANDA L.
McCULLEY, TULSA ADJUSTMENT
BUREAU, INC., and CITY FINANCE
COMPANY OF OKLAHOMA, INC. d/b/a
CITY FINANCE COMPANY OF TULSA,

Defendants.

CIVIL ACTION NO. 80-C-630-C

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 10th day of June, 1981, the Plaintiff appearing by Philard L. Rounds, Jr., Assistant United States Attorney; the Defendant, Tulsa Adjustment Bureau, Inc., appearing by its attorney, D. Wm. Jacobus, Jr.; and, the Defendants, Robert A. McCulley, Wanda L. McCulley, and City Finance Company of Oklahoma, Inc. d/b/a City Finance Company of Tulsa, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Robert A. McCulley, was served with Summons, Complaint, and Amendment to Complaint on November 8, 1980, and February 13, 1981, respectively; that Defendant, Wanda L. McCulley, was served with Summons, Complaint, and Amendment to Complaint on November 8, 1980, and February 12, 1981, respectively; that Defendant, Tulsa Adjustment Bureau, Inc., was served with Summons, Complaint, and Amendment to Complaint on February 12, 1981; and, that Defendant, City Finance Company of Oklahoma, Inc. d/b/a City Finance Company of Tulsa, was served with Summons, Complaint, and Amendment to Complaint on April 20, 1981; all as appears on the United States Marshal's Service herein.

It appearing that the Defendant, Tulsa Adjustment Bureau, Inc., has duly filed its Disclaimer herein on February 23, 1981; and, that Defendants, Robert A. McCulley, Wanda L. McCulley, and

City Finance Company of Oklahoma, Inc. d/b/a City Finance Company of Tulsa, have failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and foreclosure on a real property mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot 1, Block 1, SOUTHPARK EXTENDED, an Addition to the City of Skiatook, County of Tulsa, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Robert A. McCulley and Wanda L. McCulley, did, on the 17th day of July, 1979, execute and deliver to the United States of America acting through the Farmers Home Administration their mortgage and mortgage note in the sum of \$32,000.00 with 9 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Robert A. McCulley and Wanda L. McCulley, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the principal sum of \$32,128.39 plus accrued interest of \$5,407.83 as of June 1, 1981, plus interest from and after said date at the rate of 9 percent per annum until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendants, Robert A. McCulley and Wanda L. McCulley, in personam, for the principal sum of \$32,128.39 plus accrued interest of \$5,407.83 as of June 1, 1981, plus interest from and after said date at the rate of 9 percent per annum until paid, plus the cost of this action accrued and accruing, plus any additional sums advanced or expended during this foreclosure action by Plaintiff for taxes,

insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that as to Defendant, City Finance Company of Oklahoma, Inc. d/b/a City Finance Company of Tulsa, since no answer was timely filed, is found in default and said interest, if any, of Defendant, City Finance Company of Oklahoma, Inc. d/b/a City Finance Company of Tulsa, shall be and is found to be subordinate and subsequent to the interest of the United States of America in the mortgaged above-described premises.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the Complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney

151
PHILARD L. ROUNDS, JR.
Assistant United States Attorney

UNITED STATES OF AMERICA,
Plaintiff,
vs.
BOBBY J. GOODLOE and
DEBBIE D. GOODLOE,
Defendants

FILED

U. S. DISTRICT COURT

THAT the Defendants, Bobby J. Goodloe and Debbie D. Goodloe, did, on the 27th day of December, 1976, execute and deliver to the United States of America acting through the Farmers Home Administration their mortgage and mortgage note in the sum of \$19,900.00 with 8 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Bobby J. Goodloe and Debbie D. Goodloe, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the principal sum of \$19,882.40 plus accrued interest of \$2,010.06 as of March 17, 1981, plus interest from and after said date at the rate of 8 percent per annum, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, Bobby J. Goodloe and Debbie D. Goodloe, in personam, for the principal sum of \$19,882.40 plus accrued interest of \$2,010.06 as of March 17, 1981, plus interest from and after said date at the rate of 8 percent per annum, until paid, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the Complaint

herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

151 H. Dale Cook
UNITED STATES DISTRICT JUDGE

APPROVED

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney

Kenneth P. Snoise
KENNETH P. SNOKE
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WILLIAM JACKSON,

Plaintiff,

-vs-

ASSOCIATED HOSTS OF CALIFORNIA
d/b/a SMUGGLER'S INN,

Defendant.

FILED

JUN - 8 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-612-E

ORDER OF DISMISSAL

NOW on this 8th day of June, 1981, the above styled cause comes on before me upon the Stipulation of Dismissal filed herein by the plaintiff. The Court, having reviewed the pleadings filed herein, finds that good cause has been shown:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Third Count of the plaintiff's Complaint filed herein should be and the same is hereby dismissed with prejudice as against the defendant, Associated Hosts of California d/b/a Smuggler's Inn.

S/ JAMES O. ELLISON

JUDGE OF THE DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WILLIE ANTWINE, JR. and
CARIETA JOYCE ANTWINE,
Plaintiffs,

-vs-

FORD MOTOR COMPANY, a
Delaware corporation,
MINNESOTA AUTOMOBILE
INCORPORATION, a Foreign
corporation, and TIME MANU-
FACTURING COMPANY, a foreign
corporation,

Defendants.

FILED

JUN 8 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 80-C-448-C

STIPULATION AND VOLUNTARY DISMISSAL

COME NOW the plaintiffs, Willie Antwine, Jr. and Carieta Joyce Antwine, and by this stipulation of dismissal signed by all parties who have appeared in the action, pursuant to Rule 41(a)(2) (ii) of the Federal Rules of Civil Procedure, voluntarily dismiss without prejudice their action against the defendants named in this action.

The undersigned defendants agree and stipulate to this voluntary dismissal without prejudice pursuant to Rule 41(a)(2).

FOLIART, MILLS & NIEMEYER

By: Reggie N. Whitten
REGGIE N. WHITTEN,
Attorneys for Defendant,
Time Manufacturing Company,
a foreign corporation

Willie Antwine, Jr.
WILLIE ANTWINE, JR.,
Plaintiff

BEST, SHARP, THOMAS & GLASS

By: Joseph A. Sharp
JOSEPH A. SHARP,
Attorneys for Defendant,
Minnesota Automobile Incor-
poration, a foreign corp.

Carieta Joyce Antwine
CARIETA JOYCE ANTWINE,
Plaintiff

JONES, GIVENS, GOTCHER,
DOYLE & BOGAN, INC.

GABLE, GOTWALS, RUBIN, FOX,
JOHNSON & BAKER

By: Ronald Ricketts
RONALD RICKETTS,
Attorney for Defendant,
Ford Motor Company, a
Delaware corporation

By: Graydon Dean Luthey, Jr.
GRAYDON DEAN LUTHEY, JR.,
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TEL-PRO ENTERTAINMENT, INC.)

Plaintiff,)

vs.)

No. 80-C-94-C ✓

TULSA SUMMER MUSICALS, INC.,)
an Oklahoma Corporation)

and)

MIKE CROWLEY, an Individual)

Defendants.)

FILED

JUN 8 1981 *hm*

ORDER

Jack C. Silver, Clerk
U. S. DISTRICT COURT

It appearing to the Court that the above entitled action has been fully settled, adjusted and compromised, based on a Settlement Agreement; therefore,

IT IS ORDERED AND ADJUDGED that the above entitled action be, and it is hereby dismissed, without cost to either party and without prejudice to the Plaintiff.

Dated May 30, 1981.

W. S. Silver

JUDGE OF THE U.S. DISTRICT COURT

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 5 1981

| | | |
|---------------------------|---|----------------|
| ROBERT LAWRENCE ALSPAUGH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | No. 80-C-485-B |
| |) | |
| DAVE FAULKNER, |) | |
| |) | |
| Defendant. |) | |

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This action was brought pursuant to 42 U.S.C. §1983 wherein plaintiff alleges defendant violated his civil rights. Defendant responded with a Motion to Dismiss for failure to state a claim upon which relief can be granted. The Court concludes that plaintiff's Count I allegations are appropriate for consolidation with Clayton v. Faulkner, Case Number 79-C-723-BT, because of the similarity of the claims in both cases. The Court further concludes plaintiff's broad allegations in Count II lack the factual support necessary to show a case or controversy arising under the Constitution and laws of the United States. Therefore, defendant's Motion as to Count II is hereby sustained.

In considering a Motion to Dismiss, the Court must evaluate plaintiff's pro se in forma pauperis Complaint using procedures established by the United States Court of Appeals, Tenth Circuit. See Smart v. Villar, 547 F.2d 112 (10th Cir. 1976). A "less stringent standard" is to be used in assessing the validity of the Complaint, Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972). The allegations of the Complaint must be taken as true. Cruz v. Beto, 405 U.S. 319, 92 S.Ct. 1079, 31 L.Ed.2d 263 (1972).

Despite a more relaxed standard of review, a plaintiff must nonetheless provide a rational argument on the law or the facts to support his claim; Phillips v. Carey, 638 F.2d 207 (10th Cir. 1981). Courts will not sustain broad claims unsupported by material facts; Slotnick v. Staviskey, 560 F.2d 31, 33 (1st Cir. 1977) Neither will courts supply unpleaded facts to support conclusory allegations; O'Brien v. DiGrazia, 544 F.2d 543, 546 n.3 (1st Cir. 1976).

A claim under 42 U.S.C. §1983 "must be grounded on the violation of a right of substance and not merely on a theoretical speculation that some right has been infringed; Holmes v. Finney, 631 F.2d 150, 154 (10th Cir. 1980) The federal issue "must exist not in mere form, but in substance, and not in mere assertion, but in essence and effect." Id. at 154-155. "Plaintiff must prove that the defendant has deprived him of a right secured by the 'Constitution and laws' of the United States," Norton v. Liddel, 620 F.2d 1375 (10th Cir. 1980), and an affirmative link between the defendant and the alleged wrongs must be clearly shown; Rizzo v. Goode, 423 U.S. 362, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1976). Furthermore, a defendant cannot be held liable for the acts of others unless it is expressly shown that he "participated or acquiesced in the constitutional deprivation of which complaint is made." Kite v. Kelley, 546 F.2d 334, 337 (10th Cir. 1976).

In the present case, plaintiff asserts the following claims:

- "Count I: Violation of rights guaranteed(sic) by public laws of the United States.
- Count II: Violation of Federal Civil(sic) Rights Act."

Plaintiff requests the following relief:

- "1) Correct conditions of jail
- 2) Appoint council to assist this case(sic)
- 3) Grant plaintiff \$100,000 damages(sic) in this cause."

Item 2, the request for appointment of counsel for this civil action, was considered earlier and denied by an Order of this Court dated September 2, 1980.

In support of his claim in Count I, plaintiff alleges the following:

- "1) Overcrowded conditions
- 2) Lack of religious services
- 3) Lack of separation of pre-trial detainees from convicted criminals
- 4) Lack of telephone communications: sometimes not even once a week."

Plaintiff's Complaint does not provide specific allegations to support Count I. However, the general subject matter is the same as that of Clayton v. Faulkner presently pending in this court. Therefore, the Court sua sponte orders consolidation of Count I with Clayton v. Faulkner.

As support of his Count II, plaintiff states:

"Officer Fetterhoff was acting under the authority and direction of the defendant Faulkner.

Officer Fetterhoff did not follow normal procedure and under the violation of federal Civil Rights Act and therefore is liable."

In addition, plaintiff alleges the following as background information:

"I was walking home from work and a officer that was off duty, pulled up beside me and said (quote) I saw you bend that mailbox down the road there and giggled, and he said if I don't go and bend it back, he was going to arrest me. He and I got into an arguement. I said I did not bend it a hundred times. I did not know he was a cop untill we broke the argument he showed me his I.D. card. I told him I did not bend it, and I am not going to bend it back, and walked off, he said he would pick me up later. I was walking home 30 min or 45 later. There was a problem stirring up down the road, a lady friend's house, she had called the cops (I was not involved at all). When they came Officer Fetterhoff saw me and forgot about the lady's complaint or something, saw me and said come here. I said no, he got out of the car with a look of anger so I got in the car. He said, Remember me? I did not recognized hem in his suit. He said mailbox! -- Oh yaw."

The Court concludes that the assertions made in support of Count II fail to make out a claim arising under the Constitution and laws of the United States. Furthermore, plaintiff has failed to provide a nexus between his allegations and the named defendant; see Rizzo v. Goode, supra. Accordingly, the Court will sustain defendant's Motion to Dismiss as to Count II.

The Court notes at this point that plaintiff was given an opportunity to provide more information in support of his claim. After defendant moved to dismiss, the Court twice directed plaintiff to file a responsive brief. However, plaintiff did not respond in any manner or provide any additional information. Accordingly, the Court concludes that plaintiff had nothing to add in support of his Complaint.

IT IS, THEREFORE, ORDERED as to Alspaugh v. Faulkner, Case Number 80-C-485-B, that defendant's Motion to Dismiss is hereby sustained as to Count II, and plaintiff's Complaint as to Count II be and the same is hereby dismissed.

IT IS FURTHER ORDERED that defendant's Motion to Dismiss as to Count I in Alspaugh v. Faulkner be and the same is hereby denied.

IT IS FURTHER ORDERED that Alspaugh v. Faulkner, Case Number 80-C-485-B, be and the same is hereby consolidated into Clayton v. Faulkner, Case No. 79-C-723-BT.

ENTERED this 5th day of June, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT FOR
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN -5 1981

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL E. ROWAN,

Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

CIVIL ACTION NO. 80-C-735-C

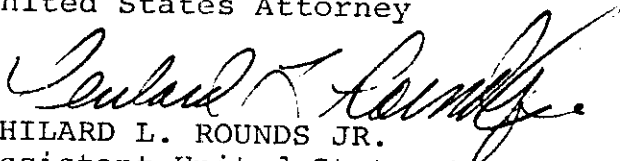
NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 5th day of June, 1981.

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney


PHILARD L. ROUNDS JR.
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E

JUN - 5 1981

CENTRAL STATES BUSINESS
FORMS, INC., a corporation,

Plaintiff,

vs.

SOUTHWESTERN BELL
TELEPHONE COMPANY, a
corporation,

Defendant.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Case No. 80-C-658-C

O R D E R

WHEREAS, on the 4th day of June, 1981, the Plaintiff,
CENTRAL STATES BUSINESS FORMS, INC., filed its Application
for Dismissal with Prejudice in this action upon the grounds
that it had entered into a written Release releasing the De-
fendant, SOUTHWESTERN BELL TELEPHONE COMPANY, of and from all
liability herein asserted, and alleging that the claims and
causes of action heretofore asserted have now been rendered
moot, and praying that this action should be Dismissed with
prejudice. The Court finds that the Application should be
sustained as the parties have settled their claims and causes
of action, one against the other, and that this action should
therefore be dismissed with prejudice.

NOW, THEREFORE, be it ordered, adjudged and decreed
by the Court that this action be and the same is hereby and
by these presents dismissed with prejudice and all parties
released to go hence without further delay.

(Signed) H. Dale Cook

Judge

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F 11

JUN - 5, 1981

Jack C.
U. S. DIST.

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
DONALD C. JONES,)
)
Defendant.)

CIVIL ACTION NO. 81-C-177-B

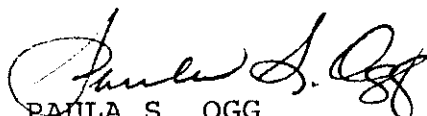
NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff
herein, by and through its attorney, Paula S. Ogg, Assistant
United States Attorney for the Northern District of Oklahoma,
and hereby gives notice of its dismissal, pursuant to Rule 41,
Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 5th day of June, 1981.

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney



PAULA S. OGG
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HARRY C. NEAL,

Plaintiff,

vs.

No. 81-C-36-B

DAVE FAULKNER, CAPT. DALTON,
LT. W. ROBERTS, F. RAMOS,
H. CRAIG, and persons unknown
to Plaintiff,

Defendants)

FILED

JUN 5 1981

Jack G. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This matter comes before the Court on a Motion to Dismiss by defendants, all law enforcement officers employed by Tulsa County. For the reasons set out below, defendants' Motion to Dismiss is hereby sustained.

In his Complaint filed February 2, 1981, plaintiff asserts a cause of action under 42 U.S.C.A. §1983 consisting of three counts essentially as follows:

COUNT I: Violations of First and Fourteenth Amendments for denial of access to "counsel, courts, public officials and the media."

COUNT II: A violation of the Eighth Amendment for an injury suffered to plaintiff's left hand when a guard closed a steel gate thereon.

COUNT III: A general conspiracy which resulted in physical abuse and a denial of access to counsel.

On March 10, 1981 defendants filed a Motion to Dismiss for failure to state a claim upon which relief can be granted. Included in the motion are specific denials of the allegations contained in plaintiff's Complaint. On April 21, 1981 the Court directed plaintiff to respond to defendants' Motion to Dismiss by April 30, 1981. However, the plaintiff failed to do so. Again, on May 20, 1981 the Court ordered plaintiff to respond to defendants' Motion to Dismiss. Again, the plaintiff failed to do so.

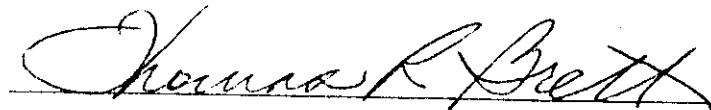
In applicable part, Rule 14(a) of the Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

"... Each motion, application and objection filed shall set out the specific point or points upon which the motion is brought and shall be accompanied by a concise brief. Memoranda in opposition to such motion and objection shall be filed within ten (10) days after the filing of the motion or objection and any reply memoranda shall be filed within ten (10) days thereafter. Failure to comply with this paragraph will constitute a waiver of objection by the party not complying..." (Emphasis added)

In the present case the Court has twice notified plaintiff of defendants' pending Motion to Dismiss. Nonetheless, plaintiff has failed to file any response whatsoever. Therefore, the Court concludes that plaintiff has waived any objections to defendants' Motion to Dismiss. Defendants' Motion to Dismiss is hereby sustained.

IT IS SO ORDERED.

ENTERED this 5th day of June, 1981.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JUN 4 1981

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THOMAS J. MUNSON and CONNIE
MUNSON,

Plaintiffs,

vs.

BUDDY WEBB and M. C. PRUITT,

Defendants.

Jack C. Silver, Jr.
U. S. DISTRICT COURT

No. 77-C-156-E

O R D E R

This case came on for disposition before the Court on May 29, 1981, at 9:00 a.m. for Plaintiffs' failure to serve Defendant M. C. Pruitt.

Plaintiffs filed this action for actual damages arising from violation of the Federal Odometer Law and for punitive damages based on fraud on April 19, 1977. On December 22, 1978, Defendant Pruitt moved to allow his attorneys to withdraw from the case because he had already incurred substantial attorney's fees and he could not afford to incur further legal expenses. The late Judge Barrow, by Order dated December 27, 1978, granted Pruitt's motion to allow his attorneys to withdraw. On January 8, 1979, Pruitt did not appear when the case was called for trial. The Plaintiffs at that time filed a motion for default judgment against Pruitt. A hearing on this motion was set for January 15, 1979, and Plaintiffs were ordered to give Defendant Pruitt three days' notice of said hearing.

On January 15, 1979, the hearing on Plaintiffs' motion for default judgment was transferred to the Honorable Robert Rizley, U. S. Magistrate. The hearing on Plaintiffs' motion was passed because Plaintiff had not obtained service on Defendant Pruitt. Plaintiffs' motion for default judgment against the Defendant Pruitt was reset for hearing on February 5, 1979. The motion was passed once again pending service on Defendant Pruitt. Since that time, February 5, 1979, Plaintiffs have made no further attempt to obtain service on Defendant Pruitt.

It is well recognized that a court may, within its sound discretion, dismiss an action sua sponte for want of prosecution. Link v. Wabash

R. R. Co., 370 U.S. 626, 629 (1962); Stanley v. Continental Oil Co., 536 F.2d 914, 917 (Tenth Cir. 1976). The United States Supreme Court has recognized that such authority to dismiss is

an "inherent power" governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.

Link v. Wabash R. R. Co., supra, at 630-631.

It is also apparent that a court must review the procedural history of a particular case in order to determine whether circumstances justify such a dismissal. Petty v. Manpower, Inc., 591 F.2d 615, 617 (Tenth Cir. 1979); Securities and Exchange Commission v. Power Resources Corp., 495 F.2d 297, 298 (Tenth Cir. 1974).

The record of the case at bar shows that it has been fifteen months since Plaintiffs attempted to serve the Defendant M. C. Pruitt. Bearing in mind both this "procedural history" and the necessity of maintaining control over this Court's calendar in an orderly and expeditious manner, and recognizing that Rule 32 of the local rules of this Court allow dismissal when no action has been taken in a case by the parties for one year, the Court is of the opinion that Plaintiffs' action should be dismissed for lack of prosecution.

IT IS THEREFORE ORDERED That case number 77-C-156 is hereby dismissed.

It is so Ordered this 4th day of June, 1981.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR THE
NORTHERN DISTRICT OF THE STATE OF OKLAHOMA

FILED
JUN 4 1981

FRANCES ADELLE STULTS,

Plaintiff,

vs.

McNAUGHTEN BUS LINES, LTD.,
and GEORGE C. HUGHES,

Defendants.

NO. 80-C-400-E

ORDER OF DISMISSAL

ON This 11 day of june, 1981, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

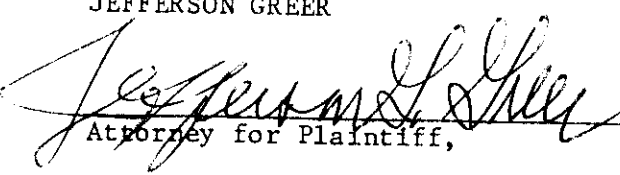
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the plaintiff filed herein against the defendants be and the same hereby is dismissed with prejudice to any future action.

S/ JAMES O. ELLISON

JUDGE, DISTRICT COURT OF THE UNITED
STATES, NORTHERN DISTRICT OF OKLAHOMA

APPROVAL:

JEFFERSON GREER


Attorney for Plaintiff,

ALFRED B. KNIGHT

15/ Alfred B. Knight
Attorney for Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FREDERICK DOUGLAS BRAY,

Petitioner,

vs.

L. T. BROWN, Warden, and
THE ATTORNEY GENERAL OF THE
STATE OF MISSOURI,

Respondents.

No. 80-C-571-E

FILED

JUN 4 1981

Jack C. Sibley, Jr.
U. S. DISTRICT COURT

O R D E R

Petitioner commenced this action on October 3, 1980, alleging that he was unlawfully restrained and detained at the Conner Correctional Center, Hominy, Oklahoma, in that he had attained parole grantee status, but that he was being held by reason of a detainer issued by the State of Missouri.

It now appears from the affidavit filed herein on February 18, 1981, that Petitioner was released from physical confinement in the State of Oklahoma, and granted parole status on October 23, 1980. His release, however, was apparently to the custody of an officer of the Kansas City, Missouri, Police Department, pursuant to the detainer which Petitioner complained of. It appears from the pleadings filed on behalf of the Attorney General of the State of Missouri that Petitioner is now standing trial for the charges connected with the detainer.

The Court now has before it Respondents' Motion to Dismiss.

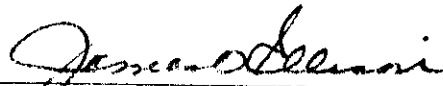
Initially, the Court would note that Respondent Brown's argument that the "in custody" requirement of 28 U.S.C. § 2254 is no longer satisfied by reason of Petitioner's release on parole, is not well taken. The Supreme Court stated in 1963 that an individual on parole could still be considered to be "in custody" for purposes of 28 U.S.C. § 2254. Jones v. Cunningham, 371 U.S. 236, 83 S.Ct. 373 (1963).

The Court, however, concludes that this action should be dismissed in any event. Petitioner is now in the State of Missouri, and is engaged in criminal proceedings in that State. Any claims that he would have relating to his right to a speedy trial may be presented to the courts of that State. Petitioner still has available

to him the full range of remedies available to any person accused of a crime, and principles of comity require this Court to decline to exercise any further jurisdiction over this matter. There also exist jurisdictional questions now that Petitioner is no longer within the territorial jurisdiction of this Court, but they need not be addressed at this time.

IT IS THEREFORE ORDERED that this action be, and the same hereby is, dismissed.

It is so Ordered this 4TH day of June, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 8 1981
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO. 80-C-740-E
)
HAROLD W. COLVIN,)
)
Defendant.)

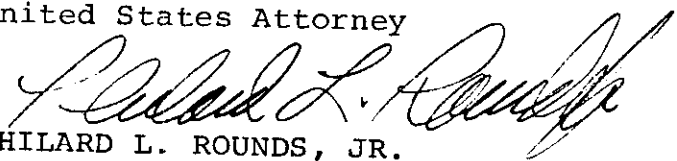
NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action, without prejudice.

Dated this 3rd day of June, 1981.

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney


PHILARD L. ROUNDS, JR.
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 3 day of June, 1981.


Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

TULSA BUILDING SUPPLY, INC. and)
E. L. SEMONES,)
Plaintiffs,)
)
-vs-)
)
UNITED STATES OF AMERICA,)
Defendant.)

JUN 3 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Civil No. 78-C-171-B

AGREED JUDGMENT

The above-captioned case having come on for hearing on May 28, 1981, and the parties having announced that a settlement had been reached.

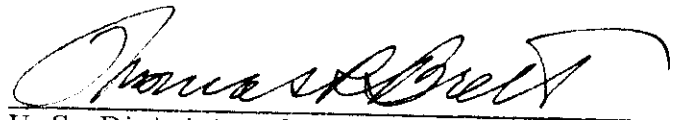
IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that:

1. The plaintiffs, Tulsa Building Supply, Inc. and E. L. Semones take nothing.
2. The defendant, U. S. A., is awarded a judgment against the plaintiffs in the total amount of \$3,100. This amount is to be paid at the rate of \$500 per month for the first five (5) months, and \$600 per month for the sixth and final payments. This judgment shall not bear interest.
3. Payments under this agreed judgment shall be made by mailing cashier or certified check payable to the order of the Department of Treasury to the offices of U. S. Department of Justice, Tax Division, Room 5B31, 1100 Commerce Street, Dallas, Texas 75242, Attention M. Bruce Peele. Such payments shall be post marked on or before the first day of each month, and the first payment shall be made on or before July 1, 1981.
4. In the event plaintiffs fail to comply with any of the provisions of paragraphs 3 and 4, above, they shall be in default and the defendant shall have the right to demand full payment of any amount still owing to the defendant and the defendant shall be entitled to collect interest on outstanding balance at the rate of 12 per cent per annum from the date of default.

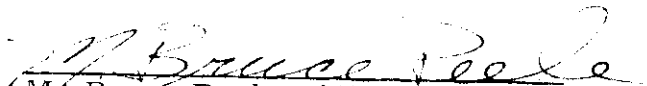
5. In the event the plaintiffs fail to comply with any of the provisions of paragraphs 3 and 4, above, the defendant shall have the right to resort to any legal means to collect the outstanding balance.

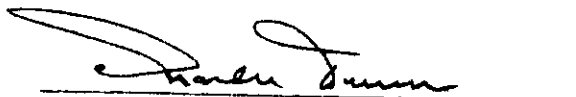
6. Each party is to bear its own cost.

DATED, the 28th day of May, 1981.


U. S. District Judge

APPROVED AS TO FORM:


M. Bruce Peele, Attorney for
Defendant.


Charles Dunn, Attorney for
Plaintiffs.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JUN 8 1981

U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD R. BAKER,

Defendant.

CIVIL ACTION NO. 81-C-178-E

NOTICE OF DISMISSAL

COMES NOW the United States of America, Plaintiff herein, by and through its attorney, Paula S. Ogg, Assistant United States Attorney for the Northern District of Oklahoma, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action, without prejudice.

Dated this 3rd day of June, 1981.

UNITED STATES OF AMERICA

HUBERT H. BRYANT
United States Attorney



PAULA S. OGG
Assistant United States Attorney

c1

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 3rd day of June, 1981.


Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -3 1981

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CAROL A. YOUNG a/k/a CAROL)
ANN YOUNG,)
)
Defendant.)

CIVIL ACTION NO. 81-C-132-E

DEFAULT JUDGMENT

This matter comes on for consideration this 3RD
day of May, 1981, the Plaintiff appearing by Paula S. Ogg,
Assistant United States Attorney for the Northern District
of Oklahoma, and the Defendant, Carol A. Young a/k/a Carol Ann
Young, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendant, Carol A. Young a/k/a Carol
Ann Young, was personally served with Summons and Complaint
on April 23, 1981, and that Defendant has failed to answer
herein and that default has been entered by the Clerk of this
Court.

The Court further finds that the time within which
the Defendant could have answered or otherwise moved as to
the Complaint has expired, that the Defendant has not answered
or otherwise moved and that the time for the Defendant to answer
or otherwise move has not been extended, and that Plaintiff
is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that
the Plaintiff have and recover Judgment against Defendant, Carol A.
Young a/k/a Carol Ann Young, for the principal sum of \$3,270.00
plus the accrued interest of \$892.81 as of March 10, 1981, plus
interest at 7% from March 10, 1981 until the date of Judgment,
plus interest at the legal rate on the principal sum of \$3,270.00
from the date of Judgment until paid.

UNITED STATES OF AMERICA
HUBERT H. BRYANT
United States Attorney
Paula S. Ogg
PAULA S. OGG
Assistant U. S. Attorney

James A. ...
UNITED STATES DISTRICT JUDGE

JUN 8 1981

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CIVIL ACTION NO. 80-C-150-E

1. *Chlorophyll a* (Chl *a*)
 2. *Chlorophyll b* (Chl *b*)
 3. *Chlorophyll c* (Chl *c*)
 4. *Chlorophyll d* (Chl *d*)
 5. *Chlorophyll e* (Chl *e*)
 6. *Chlorophyll f* (Chl *f*)
 7. *Chlorophyll g* (Chl *g*)
 8. *Chlorophyll h* (Chl *h*)
 9. *Chlorophyll i* (Chl *i*)
 10. *Chlorophyll j* (Chl *j*)
 11. *Chlorophyll k* (Chl *k*)
 12. *Chlorophyll l* (Chl *l*)
 13. *Chlorophyll m* (Chl *m*)
 14. *Chlorophyll n* (Chl *n*)
 15. *Chlorophyll o* (Chl *o*)
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 17. *Chlorophyll q* (Chl *q*)
 18. *Chlorophyll r* (Chl *r*)
 19. *Chlorophyll s* (Chl *s*)
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 21. *Chlorophyll u* (Chl *u*)
 22. *Chlorophyll v* (Chl *v*)
 23. *Chlorophyll w* (Chl *w*)
 24. *Chlorophyll x* (Chl *x*)
 25. *Chlorophyll y* (Chl *y*)
 26. *Chlorophyll z* (Chl *z*)
 27. *Chlorophyll aa* (Chl *aa*)
 28. *Chlorophyll ab* (Chl *ab*)
 29. *Chlorophyll ac* (Chl *ac*)
 30. *Chlorophyll ad* (Chl *ad*)
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Dated this 3rd day of June, 1981.

HUBERT H. BRYANT
United States Attorney

PHILARD L. ROUNDS, JR.
Assistant United States Attorney

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 3 day of June, 1981

Assistant United States Attorney

FILED

No. 81-C-211-E ✓


JUN - 3 1981.

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Plaintiff's complaint states a claim arising under state law, not the Constitution or laws of the United States. The Court will adhere to its earlier ruling, and dismiss this action for lack of jurisdiction.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Reconsider is overruled, and this action is hereby dismissed.

It is so Ordered this 3RD day of June, 1981.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE